

***United States Court of Appeals  
for the Second Circuit***



**JOINT APPENDIX**





76-7518

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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Docket No. 76-7518

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B

SOUNION SHIPPING INC., et. al.,

Plaintiffs-Appellees,

- against -

PARCEL TANKERS, INC., et. al.,

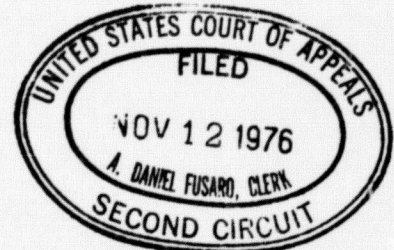
Defendant-Appellant.

P/S

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JOINT APPENDIX

---



HAIGHT, GARDNER, POOR & HAVENS  
Attorneys for Defendant-Appellant  
PARCEL TANKERS, INC.  
One State Street Plaza  
New York, N. Y. 10004  
(212) 344-6800

BURLINGHAM, UNDERWOOD & LORD  
Attorneys for Plaintiffs-Appellees  
SOUNION SHIPPING INC. and ARMCO  
FINANCIAL CORPORATION AG  
One Battery Park Plaza  
New York, N. Y. 10004  
(212) 422-7585

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\*Page reference found in upper right-hand corner

PLAINTIFFS

DEFENDANTS GAGLIARDI, J.

SOUNION SHIPPING INC., as Owner of the  
M.T. Stolt Argobay and  
ARCO FINANCIAL CORPORATION AG,  
as Mortgagee of the M.T. STOLT ARGOBAY  
and Charter Party Assignee

10/1/76  
9/1/76

PARCEL TANKERS, INC. as Charterer  
of the M.T. STOLT ARGOBAY, in  
personam and  
Sub-freights of the M.T. STOLT ARGOBAY  
in rem

CAUSE

Admiralty and Maritime Claim under FRCP Rule 9(h) & Rules B&C (Admiralty Rules)  
Breach of Charter Party. hmc

ATTORNEYS

Burlingham Underwood & Lord  
25 Bway, NY, NY 10004 422-7585  
(Arco Financial Corporation AG)

Haight, Gardner, Poor & Havens  
One State Street Plaza, NY 10004 344-6800

Freehill Hogg & Mahar  
21 West St. N., NY 10004  
(Sounion Shipping Inc)

<input type="checkbox"/> CHECK HERE CASE WAS FILED IN FBI SUPERVIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
	AUG 19 1976	674746		JS-5	
				JS-6	10-12-76



DATE	NR.	PROCEEDINGS	A-2
-19-76	1	Filed complaint and issued summons.	
-19-76	2	Issued process of Maritime Attachment & Garnishment.	
-25-76	3	Filed Order vacating attachments of Sub-Freights and all other goods, chattels, properties, or funds. Gagliardi, J.	
-13-76	4	Filed Notice of appearance by attys for defts.	
-01-76	5	Filed Process of Maritime Attachment and Garnishment.	
-01-76	6	Filed Summons to Show cause why intangible property should not be paid into court ret. 9/14/76, 10:00 A.M. with Marshal's return. Served Dow Chemical Intl Inc. by Mr. James Jones on 8/23/76	
-01-76	7	Filed Warrant for Arrest in action in rem. Breach of Charter party said to be due and owing in sum of \$1,154,714, with Marshal's return. Served Lever Brothers Company by Lawrence S. Doyle on 8/23/76	
-01-76	8	Filed ORDER VACATING ATTACHMENTS OF SUB-FREIGHTS AND ALL OTHER GOODS, CHATTELS, PROPERTY OF FUNDS. Ordered that sub-freights & other property as aforesaid in custody of US Marshal are released from said custody with Marshal's return. On 8/25/76 rec'd Order on 8/25/76, released property & sub-freights of defts per Order of process of maritime attachment & garnishment & Warrant of Arrest in rem in hands Bankers Trust Co. MFG Hanover Trust Co. Lever Bros. Dow Chemicals Intl, Inc., M&T Bank, Chase Manhattan Bank, N.A. Citibank, N.A. & Chemical Bank. Marshal Julian	
-21-76	9	Filed Order to Show Cause Re; Order pursuant to Supp. Rule E(7) F.R.C.P. requiring Pltffs. to give security in the usual amount and form, or other form satisfactory to the Deft., to respond in damages to the claims set forth in the defts. counterclaim, etc. Ret 09-24-76. Gagliardi J.	
-21-76	10	Filed Defts. Memorandum in Support of Application for Order to Show Cause.	
-21-76	11	Filed Deft Parcel Tankers, Inc. Answer and Counter-Claims	
		<b>PRE-TRIAL CONFERENCE HELD BY</b> <i>Gagliardi</i>	
9-28-76			
0-07-76	12	Filed OPINION #45218. Accordingly, in exercise of its discretionary authority under Suppl. Rule E(7) this court denies defts application for security from pltffs So Ordered. Gagliardi, J.(mn)	
0-12-76	13	Filed JUDGMENT #76,907. Ordered that pltffs Sounion Shipping, Inc. & Armco Financial Corporation, AG recover from Deft. Parcel Tankers, Inc. total sum of \$225,513.89 ordered that unless judgment be satisfied or proceedings stayed by an appeal within 10 days after entry of judgment, pltffs shall have execution against deft, his good, chattels & lands to satisfy judgment. Gagliardi, J.	
		JUDGMENT ENTERED. Clk. (mn)	Ent. 10/14/76
-15-76	14	Filed Deft. Parcel Tankers Inc. Notice of Appeal from judgment entered 10/12/76 (Mailed copy to Burlingham Underwood & Lord on 10/15/76)	
0-15-76	15	Filed Supersedeas Bond in total sum of \$250,571.00 (National Surety Corporation)	
0-15-76	(16)	Filed Pltff's reply to counterclaims.	FH&M BUT & L
0-29-76	(17)	Filed letter dated 9-27-76 to Judge Gagliardi from Haight, Gardner with copy of opinion of Arbitration Panel.	
-29-76	(18)	Filed letter dated 9-27-76 to Gagliardi, J. from Attorneys for pltff. Armco, Burlingham, Underwood.	
0-29-76	(19)	Filed letter dated 9-29-76 to Gagliardi, J. from Richard Ashworth of Haight Gardner.	



FILE COPY  
 RAIGHT, GARDNER, POOR & HAVENS  
 ONE STATE STREET PLAZA NEW YORK  
 10-14-76  
 ENTERED  
 RE  
 BY: BN

A-3

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

SOUNION SHIPPING INC., as Owner of  
 the M.T. STOLT ARGOBAY, and,

ARMCO FINANCIAL CORPORATION, AG,  
 as Mortgagee of the M.T. STOLT  
 ARGOBAY, and Charter Party  
 Assignee,

Plaintiffs,

- against -

PARCEL TANKERS, INC., as Charterer  
 of the M.T. STOLT ARGOBAY, in  
personam, and

Sub-Freights of the M.T. STOLT  
 ARGOBAY, in rem,

Defendants.

JUDGMENT # 76,907

76 Civ. 3705 (LPG)

This cause having been referred to arbitration pursuant to the Charter Party between Sounion Shipping, Inc., as Owner, and Parcel Tankers, Inc., as Charterer, dated February 6, 1973, and hearings held before the Panel of Arbitrators on September 14, 1976 and subsequent dates, and upon evidence, argument and briefs submitted by the attorneys for the respective parties, the Panel of Arbitrators, after due deliberation, having rendered by unanimous vote an Interim Arbitration Decision dated September 16, 1976 finding that the Charterer, Parcel Tankers, Inc., is not justified in withholding hire as due and required under Clause 5 and directing that full charter hire be paid to the Owner to date in accordance with the terms of the Charter, it is

ORDERED, ADJUDGED AND DECREED that Plaintiffs  
 Sounion Shipping, Inc. and Armco Financial Corporation, AG,

MICROFILM

OCT 13 1976



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recover of and from the Defendant, Parcel Tankers, Inc., the sum of \$223,888.21 plus interest of \$1,625.68 for a total of \$225,513.89, and it is further

ORDERED, ADJUDGED AND DECREED that unless the judgment be satisfied, or proceedings thereon stayed by an appeal, within ten days after the entry of this judgment, the Plaintiffs shall have execution against the Defendant, his goods, chattels and lands to satisfy this judgment.

Dated: New York, New York  
*October 5th*  
~~September~~, 1976

*[Signature]*  
JUDGE  
Judge

T O : HAIGHT GARDNER POOR & HAYES  
Attorneys for Defendant  
1 State Street Plaza  
New York, New York 10008

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Attorneys for Plaintiff  
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BUTLINCHAM UNDERWOOD & LLOYD  
Attorneys for Plaintiff  
Armed Financial Corp., Inc.  
25 Broadway  
New York, New York 10004



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

SOUNION SHIPPING INC., as Owner of the :  
M. T. STOLT ARGOBAY, and : 76 Civ. 3705

ARMCO FINANCIAL CORPORATION A.G., :  
as Mortgagee of the M.T. STOLT ARGOBAY : MEMORANDUM  
and Charter Party Assignee, : DECISION

Plaintiffs,

-against-

PARCEL TANKERS, INC., as Charterer :  
of the M.T. STOLT ARGOBAY, in :  
personam, and :

Sub-Freights of the M. T. STOLT :  
ARGOBAY, in rem, :

Defendants. :

- - - - -x

GAGLIARDI, D. J.

This is an application by defendant Parcel Tankers, Inc. ("Parcel Tankers"), for an order requiring plaintiffs Sounion Shipping Inc. ("Sounion") and Armco Financial Corporation A.G. ("Armco") to provide security satisfactory to Parcel Tankers to respond in damages to the claims set forth in its counterclaim, as permitted by Rule E(7), Fed. R. Civ. P., Supplemental Rules for Certain Admiralty and Maritime Claims. For the reasons which follow, the application is denied.

Sounion, as owner of the M/T Stolt Argobay, and Armco, as the vessel's mortgagee, initiated the action by



filing a complaint on August 19, 1976 alleging a breach of the charter party agreement between themselves and Parcel Tankers, the charterer of the M/T Stolt Argobay, by Parcel Tankers' removal of the vessel from active use and its refusal to pay the charter hire due as required by the terms of that charter party. Plaintiffs also sought indemnity for claims made against Sounion and the vessel by various cargo receivers for cargo contamination allegedly caused by Parcel Tankers' breach of the charter party. Parcel Tankers provided security to answer both for plaintiffs' claim for payment of hire due for the breach of the charter party and for their claim for cargo damage.

Pursuant to the terms of the charter party, the parties submitted all disputes to arbitration. On September 16, 1976 the arbitration panel entered an Interim Decision which found that Parcel Tankers, as charterer, was not justified in withholding the hire which was due and directed Parcel Tankers to pay full charter hire due to date. This hire, under the terms of the charter party, is payable to Armco. Parcel Tankers in its answer denied any breach of the charter party and alleged three counterclaims against plaintiffs, one of which included a claim for the damages which Parcel Tankers would allegedly suffer as a result of its compliance with the Interim Decision. With the filing of its answer and counterclaims defendant brought



on the Supplemental Rule E(7) application for security referred to above. In opposing defendant's application, plaintiffs have urged this court to deny the request for security and to enter judgment on the Interim Decision award of the arbitration panel.

#### The Interim Decision

This court's jurisdiction to confirm the interim arbitration award and to enter judgment thereon is provided by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq. §9 of that Act permits a federal district court to confirm an arbitration award "[i]f the parties in their agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration." 9 U.S.C. §9. Such agreement was explicitly reached by the parties in Clause 53 of their charter party, which provided in pertinent part: ". . . judgment may be entered upon any award made in arbitration proceedings in any Court having jurisdiction in the premises." Cf. I/S Stavborg v. National Metal Converters, Inc., 500 F.2d 424 (2d Cir. 1974). Accordingly, under the charter party agreement Armco is entitled to judgment on the Interim Decision of the arbitration panel.

#### Application for Security

Supplemental Rule E(7), supra, reads in relevant part as follows:



Security on Counterclaim. Whenever there is asserted a counterclaim arising out of the same transaction or occurrence with respect to which the action was originally filed, and the defendant or claimant in the original action has given security to respond in damages, any plaintiff for whose benefit such security has been given shall give security in the usual amount and form to respond in damages to the claims set forth in such counterclaim, unless the court, for cause shown, shall otherwise direct; and proceedings on the original claim shall be stayed until such security is given, unless the court otherwise directs.

This rule is not a mandatory provision but rather vests the court with broad discretionary authority to compel a plaintiff to provide security for a counterclaim when the defendant has previously provided security for the plaintiff's claim. Flota Maritima Browning De Cuba v. Motor Vessel Ciudad de la Habana, 245 F. Supp. 205, 209-210 (D. Md. 1965), aff'd, 363 F.2d 733 (4th Cir.), cert. denied sub nom. Republic of Cuba, Banco Para el Comercio Exterior de Cuba v. Flota Maritima Browning de Cuba, 385 U.S. 837 (1966); Seaboard & Caribbean Transport Corp. v. Hafen-Dampfschiffahrt A. G. Hapag-Hadac Seebaderdienst, 329 F.2d 538, 541 (5th Cir. 1964). The discretionary nature of this rule derives from its basic purpose which is "to place the parties on an equality as regards security." Washington-Southern Navigation Co. v. Baltimore & Philadelphia Steamboat Co., 263 U.S. 629, 638-39 (1924) (footnote omitted).

In the controversy before this court Sounion and Armco, in response to the decision of the arbitration panel

directing Parcel Tankers to pay the charter hire due, have agreed to release that portion of the security which had been accepted from Parcel Tankers for the claim for unpaid hire. Defendant's application for security, based on its counterclaim for damages it may suffer by complying with the Interim Decision, must be examined in light of this agreement by the plaintiffs. The court must also take note of the respect due the Interim Decision, voted by a unanimous panel of arbitrators, which found that the defendant had improperly withheld payment of charter hire and directed that full hire be paid by Parcel Tankers in accordance with the terms and conditions of the charter party agreement. Accordingly, in the exercise of its discretionary authority under Supplemental Rule E(7) this court denies defendant's application for security from the plaintiffs.

So Ordered.

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U.S.D.J.

Dated: New York, New York  
October 6, 1976.



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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----- X  
SOUNION SHIPPING INC., as Owner of the :  
M. T. STOLT ARGOBAY, and

ARMCO FINANCIAL CORPORATION AG,  
as Mortgagee of the M. T. STOLT ARGOBAY  
and Charter Party Assignee,

Plaintiffs, : COMPLAINT

- against -

PARCEL TANKERS, INC., as Charterer :  
of the M. T. STOLT ARGOBAY, in :  
personam, and :

Sub-Freights of the M. T. STOLT :  
ARGOBAY, in rem, :

Defendants. :  
----- X

Plaintiff Sounion Shipping Inc. by its attorneys  
Freehill Hogan & Mahar and plaintiff Armco Financial Cor-  
poration AG by its attorneys Burlingham Underwood & Lord,  
for their complaint herein allege upon information and  
belief as follows:

1. This is a case of admiralty and maritime  
jurisdiction of the court as hereinafter more fully appears  
and is an admiralty and maritime claim with the meaning  
of Rule 9(h) of the Federal Rules of Civil Procedure.

2. Plaintiff Sounion is a corporation organized  
under the laws of Liberia with its principal place of  
business in Monrovia, Liberia, and is the Owner of the  
Liberian flag vessel M. T. STOLT ARGOBAY.

3. Plaintiff Armco is a corporation organized  
under the laws of Switzerland with its principal place of



business in Zug, Switzerland, and is the First Preferred Mortgage of the STOLT ARGOBAY.

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4. Defendant Parcel Tankers, Inc. is a corporation organized and existing under the laws of Liberia.

5. On or about February 6, 1973, Sounion as Owner of the STOLT ARGOBAY entered into a time charter party with defendant Parcel Tankers, Inc. pursuant to which Sounion agreed to let and Parcel Tankers agreed to hire the STOLT ARGOBAY for a period of about eight years at an agreed rate of hire.

6. On or about March 19, 1973, Sounion as owner of the STOLT ARGOBAY assigned all of its right, title and interest in the charter party to Armco to secure certain obligations of Sounion, as shipowner, to Armco, as mortgagee of the STOLT ARGOBAY.

AS AND FOR A FIRST CAUSE OF ACTION

7. Since July 23, 1976 Parcel Tankers has, although required by the charter party and duly demanded by Sounion, failed to pay the full hire due to date and has refused to give sailing orders to the vessel and is thereby in breach of the charter party terms and conditions.

8. Sounion has performed all obligations under the charter which it is obligated to perform.

9. By reason of the aforesaid breaches of charter party by Parcel Tankers, plaintiffs have been damaged to date in the amount of \$154,714, which charter hire amount will accrue and become due at the rate of



\$3,868 per day and unless paid plaintiffs' claim will be increased accordingly.

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AS AND FOR A SECOND CAUSE OF ACTION

10. Plaintiffs repeat and reallege the allegations contained in paragraph 1 through 9.

11. During June, 1976, Parcel Tankers caused various quantities of cargo to be loaded on board the vessel at various United States and Canadian Great Lakes ports which were thereafter carried and delivered by the vessel to Rotterdam, the Netherlands, and for which Parcel Tankers will receive freights due from the shippers or under voyage charter parties and/or bills of lading. Such freights are now, or during the pendency of this action will be, within this district.

12. Sounion duly caused the vessel to carry and to deliver such cargos to proper parties in Rotterdam as required by the Parcel charter party and the bills of lading.

13. On or about June 19, 1976, in connection with the loading of certain cargos at Sarnia, Ontario, Parcel Tanker's agent and/or sub-agent and/or employee, one K.J. DIMITRIOU, its Supercargo, wrongfully and tortiously misstated and caused to be misstated to E. W. Saybolt and Co., Inc., the cargo loading surveyor, the prior contents of the vessel's tanks nos. 4-Starboard and 7-port, which he knew to be false and untrue and into which tanks, respectively, incompatible cargos of Chlorothene and Perchlorethylene destined for Rotterdam were proposed to be loaded. Such misstatements were made to induce the loading of said incompatible cargos. Such loading thereafter occurred in



reasonable reliance upon such false misstatement. Such misstatement tortiously and proximately caused the contamination of such cargos.

14. Upon discharge of such damaged cargos in Rotterdam, contamination claims in the aggregate amount of \$1,000,000 were made against the vessel and Sounion by the cargo receivers who caused the vessel to be arrested, as a result of which wrongful acts of Parcel Tankers, Sounion will be damaged in the amount of \$1,000,000 as nearly as may now be calculated.

15. Clause 14 of the charter party provides in part as follows:

"14. The Owner shall have an absolute lien on all cargoes and sub-freights for all amounts due under this charter, . . ."

This clause entitles plaintiffs to a lien on the sub-freights..

16. Sounion has performed all obligations under the charter which it was obligated to perform and plaintiffs are entitled to receive the sub-freights to be applied against plaintiffs' damages.

AS AND FOR A THIRD CAUSE OF ACTION

17. Plaintiffs reallege paragraphs 1 through 16.

18. Clause 53 of the charter provides as

follows:

"53. Any and all differences and disputes of whatsoever nature arising out of this Charter shall be put to arbitration in the City of New York pursuant to the laws relating to



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arbitration there in force, before a board of three persons, consisting of one arbitrator to be appointed by the Owner, one by the Charterer, and one by the two so chosen. The decision of any two of the three on any point or points shall be final. Either party hereto may call for such arbitration by service upon any officer of the other, wherever he may be found, of a written notice specifying the name and address of the arbitrator chosen by the first moving party and a brief description of the disputes or differences which such party desires to put to arbitration. If the other party shall not, by notice served upon an officer of the first moving party, within twenty days of the service of such first notice, appoint its arbitrator to arbitrate the dispute or differences specified, then the first moving party shall have the right without further notice to appoint a second arbitrator, who shall be a disinterested person with precisely the same force and effect as if said second arbitrator has been appointed by the other party. In the event that the two arbitrators fail to appoint a third arbitrator within twenty days of the appointment of the second arbitrator, either arbitrator may apply to a Judge of any court of maritime jurisdiction in the city above-mentioned for the appointment of a third arbitrator, and the appointment of such arbitrator by such Judge on such application shall have precisely the same force and effect as if such arbitrator had been appointed by the two arbitrators. Until such time as the arbitrators finally close the hearings either party shall have the right by written notice served on the arbitrators and on an officer of the other party to specify further disputes or differences under this Charter for hearing and determination. Awards made in pursuance to this clause may include costs, including a reasonable allowance for attorney's fees, and judgement may be entered upon any award made hereunder in any Court having jurisdiction in the premises.

19. Plaintiffs have the right to arbitration in accordance with the foregoing clause 53 and reserve all of their rights to proceed with such arbitration. This action is commenced for the purpose of obtaining partial security for an award which may ultimately be made in plaintiffs' favor.



20. Notwithstanding the possible submission of this dispute to arbitration, plaintiffs are entitled to maintain this suit under the provisions of 9 U.S.C. § 8. A-15

WHEREFORE, plaintiffs pray:

(1) That process issue in accordance with Rule B(1) of the Supplemental Rules for Certain Admiralty and Maritime Claims to attach all of the goods, chattels, and property or credits and effects belonging to the defendant, Parcel Tankers, Inc., if the defendant shall not be found within this district, to the extent of \$1,154,714 and they be condemned and paid over to plaintiffs, and in particular

(a) All bank accounts maintained by defendant Parcel Tankers, Inc. or other credits, instruments, securities, funds belonging to defendant, collateral of any kind, including cash, and on deposit with

M. & T. Bank  
(formerly First Empire Bank - New York)  
654 Madison Avenue  
New York, New York

3 Citibank, N.A.  
339 Park Avenue  
New York, New York

2 Manufacturers Hanover Trust Company  
40 Wall Street  
New York, New York

Chemical Bank  
20 Pine Street  
New York, New York

Chase Manhattan Bank  
One Chase Manhattan Plaza  
New York, New York

1 Bankers Trust Company  
280 Park Avenue  
New York, New York;



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(b) All cash, credits, instruments, securities, collateral and payables belonging to Parcel Tankers, Inc. of any kind on deposit with or held by Stolt-Nielsen, Inc. in accounts with

M. & T. Bank  
(formerly First Empire Bank - New York)  
654 Madison Avenue  
New York, New York

Citibank, N.A.  
399 Park Avenue  
New York, New York

Manufacturers Hanover Trust Company  
40 Wall Street  
New York, New York

Chemical Bank  
20 Pine Street  
New York, New York

Chase Manhattan Bank  
One Chase Manhattan Plaza  
New York, New York

Bankers Trust Company  
280 Park Avenue  
New York, New York;

(c) All collateral of any kind, including cash, which has been posted by defendant Parcel Tankers, Inc. as security for the issuance of any letter of credit on its behalf or other credits or advances, which is in the possession of Stolt-Nielsen, Inc. or any of the persons specified in subparagraph (1)(a) above;

(d) All defendant's interest in any bill of lading and other cargo documents in the possession or custody of Stolt-Nielsen, Inc. or any of the persons specified in subparagraph (1)(a) above; and

(e) All defendant Parcel Tankers' interest in any letters of credit and the proceeds of any letters of credit now in the possession or custody of Stolt-Nielsen,



inc. or any of the persons specified in subparagraph (1)(a) above.

(2) That process in rem issue pursuant to Rule C(3) of the Supplemental Rules for certain Admiralty and Maritime Claims and according to the practice of this Honorable Court in cases of Admiralty and Maritime jurisdiction against the sub-freights of the M.T. STOLT ARGOBAY in the hands of:

Dow Chemical International, Inc.  
45 Rockefeller Plaza  
New York, New York

Lever Brothers Company  
390 Park Avenue  
New York, New York

that all persons claiming any right, title or interest in said subfreights be summoned to appear, claim, and answer the complaint, that the plaintiffs be adjudged and decreed to have a maritime lien on said sub-freights and that such sub-freights to the extent of \$1,154,714 be condemned and paid over to plaintiffs;

(3) That plaintiffs recover judgment against defendants in the amount of \$1,154,714 plus interest from July 23, 1976 and costs;

(4) That if plaintiffs' claims herein are submitted to arbitration, the court retain jurisdiction to enter its decree upon the award as provided in 9 U.S.C. § 8; and



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(5) Plaintiffs have such other and further relief as the court may deem just and proper.

Dated: New York, New York

August 18, 1976

FREEMILL HOGAN & MAHAR  
Attorneys for Plaintiff  
Sounion Shipping Inc.

By Philip Moyles  
Philip Moyles  
Office & P. O. Address  
21 West Street  
New York, New York 10004

BURLINGHAM UNDERWOOD & LORD  
Attorneys for Plaintiff  
A.mco Financial Corporation AG

By ELLIOTT B. LIXON  
ELLIOTT B. LIXON  
Office & P. O. Address:  
25 Broadway  
New York, New York 10004



STATE OF NEW YORK )  
                          : ss.:  
COUNTY OF NEW YORK)

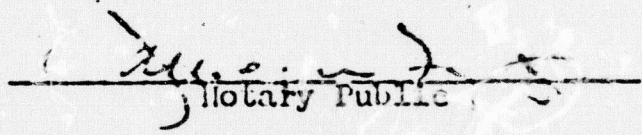
NICHOLAS T. K. SKARVELIS, being duly sworn deposes and says that he is President of Sounion Shipping Inc. one of the plaintiffs herein; that he has read the foregoing complaint and knows the contents thereof, and that same is true to his own knowledge, except as to the matters stated to be alleged upon information and belief, and as to those matters he believes it to be true;

That the sources of his information and grounds for his belief as to those matters stated in the complaint to be upon information and belief are documents and records in plaintiff Sounion's files and conversations had with others.

The reason why this verification is made by deponent is that plaintiff Sounion Shipping Inc. is a corporation.

  
NICHOLAS T. K. SKARVELIS

Sworn to before me this  
13<sup>th</sup> day of August, 1976.

  
Notary Public

JAMES W. FRY, JR.  
Notary Public, State of New York  
No. 24-4507765  
Qualified in Kings County  
Commission filed in New York County  
Commission Expires March 30, 1977



STATE OF NEW YORK     )  
                              :    ss.:  
COUNTY OF NEW YORK    )

**ELLIOTT B. NIXON**, being duly sworn deposes and says that he is a member of the firm of Burlingham Underwood & Lord, the attorneys for the plaintiff Armco Financial Corporation AG herein; that he has read the foregoing complaint and knows the contents thereof, and that same is true to his own knowledge, except as to the matters stated to be alleged upon information and belief, and as to those matters he believes it to be true;

That the reason this verification is made by him and not by plaintiff is that plaintiff Armco Financial Corporation AG is a foreign corporation, none of whose officers are now within the district; and

That the sources of his information and grounds for his belief as to those matters stated in the complaint to be upon information and belief are documents and records in his files and conversations had with others.

*Elliott B. Nixon*

Sworn to before me this  
19th day of August, 1976.

*James W. Fox, Jr.*  
Notary Public

JAMES W. FOX, JR.  
Notary Public, State of New York  
No. 24-4207765  
Qualified in Erie County



A-21

STATE OF NEW YORK     )  
                              :     ss.:  
COUNTY OF NEW YORK    )

ELLIOTT B. NIXON , being first duly sworn, states that he is a member of Burlingham Underwood & Lord, attorneys for plaintiff in this action; that defendant Parcel Tankers Inc. is a corporation organized and existing under the laws of some foreign country believed to be Liberia; that to the best of his information and belief, such defendant cannot be found within the City, County, State or Southern District of New York, nor has defendant authorized any person as its agent to receive service of process therein.

Elliott B. Nixon

Sworn to before me this  
19th day of August, 1976.

James W. Hall  
Notary Public

JAMES W. HALL, Jr.  
Notary Public, State of New York  
No. 24-450763  
Qualified in Kings County  
Certificate filed in New York County  
Commission Expires March 30, 1977



A-22

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FILE COPY  
HAIGHT, GARDNER, POOR & HAVENS  
ONE STATE STREET PLAZA NEW YORK  
9-27-76  
ENTERED  
BY: RED

SOUNION SHIPPING INC., as Owner of  
the M.T. STOLT ARGOBAY, and,

ARMCO FINANCIAL CORPORATION, AG,  
as Mortgagee of the M.T. STOLT  
ARGOBAY, and Charter Party  
Assignee,

Plaintiffs,

- against -

PARCEL TANKERS, INC., as Charterer  
of the M.T. STOLT ARGOBAY, in  
personam, and

Sub-Freights of the M.T. STOLT  
ARGOBAY, in rem,

Defendants.

PARCEL TANKERS, INC.'s  
ANSWER AND COUNTER-  
CLAIMS

76 Civ. 3705 (LPG)

Defendant, Parcel Tankers, Inc , by its attorneys,  
Haight, Gardner, Poor & Havens, for its answer to the  
complaint herein alleges upon information and belief as  
follows:

1. Admits the allegations contained in paragraph  
1 of the Complaint.

2. Denies knowledge or information sufficient  
to form a belief as to the allegations contained in  
paragraph 2 of the Complaint.

3. Denies knowledge or information sufficient  
to form a belief as to the allegations contained in  
paragraph 3 of the Complaint.



vessel at various United States and Canadian Great Lakes ports which were thereafter carried and delivered by the vessel to Rotterdam, The Netherlands, and for which defendant has received, or will receive, freights due from the shippers or under voyage charter parties and/or bills of lading, but except as so specifically admitted, denies each and every allegation contained in paragraph 11 of the Complaint.

13. Admits that plaintiff Sounion caused the vessel to carry and to deliver such cargoes to proper parties in Rotterdam as required by the charter party and the bills of lading, but except as so specifically admitted, denies each and every allegation contained in paragraph 12 of the Complaint.

14. Denies each and every allegation contained in paragraph 13 of the Complaint.

15. Denies each and every allegation contained in paragraph 14 of the Complaint.

16. Admits that Clause 14 of the charter party provides in part as follows:

"14. The Owner shall have an absolute  
Lien on all cargoes and sub-freights  
amounts due under this  
Charter. . ."

17. Denies each and every allegation contained in paragraph 16 of the Complaint.

ANSWER TO THIRD CAUSE OF ACTION

18. Repeats and realleges each and every admission, denial and denial of knowledge or information contained in paragraphs 1 through 17 inclusive of this answer, with the same force and effect as if herein set forth at length.



19. Admits the allegation contained in paragraph 18 of the Complaint.

20. Admits that plaintiffs have the right to arbitration and reserve all of their rights to proceed with such arbitration, but except as so specifically admitted, denies each and every allegation contained in paragraph 19 of the Complaint.

21. Denies each and every allegation contained in paragraph 20 of the Complaint.

FURTHER ANSWERING THE COMPLAINT AND FOR A FIRST, SEPARATE AND COMPLETE DEFENSE TO THE FIRST CAUSE OF ACTION, DEFENDANT, PARCEL TANKERS, INC., ALLEGES UPON INFORMATION AND BELIEF AS FOLLOWS:

22. Repeats and realleges each and every admission, denial and denial of knowledge or information contained in paragraphs 1 through 21 inclusive of this answer, with the same force and effect as if herein set forth at length.

23. On or about September 15, 1976, pursuant to the terms and conditions of Arbitration Clause 53, plaintiff Sounion and defendant Parcel Tankers, convened to arbitrate the alleged non-payment of hire in the amount as set forth in paragraph 9 of the Complaint.

24. On September 16, 1976, the arbitration panel made an Interim Decision directing defendant to pay withheld charter hire, without prejudice to the further issues of vessel performance, condition, deficiencies and cargo contamination raised by defendant during the arbitration, and without passing on the merits of either party's claims.



25. Defendant has agreed to pay the charter hire as directed in the Interim Decision, without prejudice to defendant's right to recover said payment upon the final decision of the arbitrators.

26. Therefore, the first cause of action as set forth in paragraphs 7 through 9 of the Complaint is moot.

FURTHER ANSWERING THE COMPLAINT AND FOR A FIRST, SEPARATE AND COMPLETE DEFENSE TO THE SECOND CAUSE OF ACTION, DEFENDANT PARCEL TANKERS, INC., ALLEGES UPON INFORMATION AND BELIEF AS FOLLOWS:

27. Repeats and realleges each and every admission, denial and denial of knowledge or information contained in paragraphs 1 through 26 inclusive of this answer, with the same force and effect as if herein set forth at length.

28. Plaintiffs Sounion and Armco Financial Corporation to date have not suffered any damage or loss as to any shortage, loss or damage to the shipments of cargoes referred to in paragraphs 10 through 16.

29. Plaintiffs, as yet, have not tendered or paid any part of the sums alleged due and owing on account of alleged cargo damage to the various shippers and/or consignees referred to in paragraphs 10 through 16 of the Complaint.

30. Plaintiffs have not suffered any loss upon which this Court can grant relief.

AS AND FOR A FIRST COUNTERCLAIM AGAINST PLAINTIFF SOUNION SHIPPING, INC. AND AGAINST THE M.T. STOLT ARGOBAY:



31. Repeats and realleges each and every admission, denial and denial of knowledge or information contained in paragraphs 1 through 30 inclusive of this pleading, with the same force and effect as if herein set forth at length.

32. The said M.T. STOLT ARGOBAY was and at all material times being operated under and pursuant to Tanker Time Charter Party dated February 6, 1973, between Sounion Shipping, Inc. owner and Parcel Tankers, Inc., charterer, a copy of which is annexed hereto as Exhibit 1, and made a part hereof as if fully set forth.

33. Plaintiff Sounion by reason of its breach of Clauses 3, 19, 33 and 57, among other, of charter party, in failing to maintain the cargo and other pumps, cargo and other lines, boilers, butterworth machinery, heating coils, tank coating, and other equipment, has caused this vessel to be in an unseaworthy and improper condition for the carriage of parcel cargoes as required by the charter party.

34. As a result of the breaches of the charter party by Sounion, defendant exercised its rights under Clause 11 of the charter party by placing the vessel off-hire until the vessel should be "again in an efficient state to resume her service", but has been required by the arbitrators to pay hire during the off-hire period.

35. Defendant has performed all the obligations under the charter party which it is obliged to perform.

36. By reason of the aforesaid breaches of the charter party by Sounion, defendant has been damaged to date in the amount of \$223,702.21, and charter hire will continue to accrue and become due.

AS AND FOR A SECOND COUNTERCLAIM AGAINST PLAINTIFF  
SOUNION SHIPPING, INC. AND AGAINST THE M.T. STOLT ARGOBAY:



37. Repeats and realleges each and every admission, denial and denial of knowledge or information contained in paragraphs 1 through 36, inclusive of this pleading, with the same force and effect as if herein set forth at length.

38. If there was any loss or damage to the shipments referred to in the complaint and if said loss or damage causes any liability on the part of defendant Parcel Tankers, Inc., any such liability will have been brought about by Sounion's breach of the charter and by reason thereof defendant is entitled to full indemnity from Sounion for its loss or damage, including reasonable counsel fees and legal expenses, and has a maritime lien on said vessel for said damages.

AS AND FOR A THIRD COUNTERCLAIM AGAINST PLAINTIFF SOUNION SHIPPING, INC., AND AGAINST THE M.T. STOLT ARGOBAY:

39. Repeats and realleges each and every admission, denial and denial of knowledge or information contained in paragraphs 1 through 38, inclusive of this pleading, with the same force and effect as if herein set forth at length.

40. As a result of plaintiff Sounion's failure to properly maintain the M.T. STOLT ARGOBAY in a tight, staunch and strong seaworthy condition with the pipelines, pumps, heating coils, butterworthing and other equipment in good working condition, defendant has suffered loss of freight revenue and business reputation in that cargo interests have refused to ship their cargoes on board the M.T. STOLT ARGOBAY.



41. By reason of the foregoing defendant has been damaged to date in respect to loss of revenue in the amount of \$200,000, as nearly as can presently be ascertained, which loss will continue to accrue.

WHEREFORE, Defendant Parcel Tankers, Inc., demands judgment dismissing the complaint herein, and prays:

1. That it may have judgment on its counterclaims as set forth herein against plaintiff Sounion Shipping, Inc. and the M.T. STOLT ARGOBAY, in the amount of \$423,702.21, together with interest and the costs of this action.

2. That pursuant to Rule E(7) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, plaintiffs be ordered to give security in the usual amount and form to respond in damages to the claims set forth in the counterclaims herein.

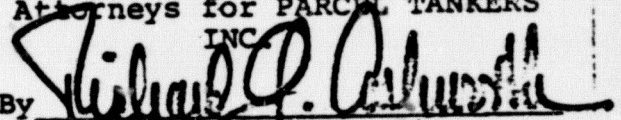
3. That it may have judgment for indemnification against plaintiff Sounion Shipping, Inc. and said vessel.

4. That it may have such other and further or different relief as may be just.

Dated: New York, New York  
September 21, 1976.

HAIGHT, GARDNER, POOR & HAVENS  
Attorneys for PARCEL TANKERS  
INC.

By



A Member of the Firm  
One State Street Plaza  
New York, N. Y. 10004

TO: BURLINGHAM, UNDERWOOD & LORD  
Attorneys for Plaintiff  
ARMCO FINANCIAL CORPORATION AG  
25 Broadway  
New York, N. Y. 10004

FREEHILL, HOGAN & MAHAR  
Attorneys for Plaintiff  
SOUNION SHIPPING, INC.  
21 West Street  
New York, N.Y. 10004





## TANINER TIME CHARTER PARTY

ESSO TIME  
1966

A-30

February 6, 73

TOLT ARGOEAY"

DESCRIP-  
TION OF  
VESSEL

160°F

DEAD-  
WEIGHT

PERIOD

one  
DELIVERY

TRADE

TANINER TIME CHARTER PARTY  
SOUNION SHIPPING, INC., AMERSHIP  
NEW YORK, AS MANAGERS  
Chartered Owner (hereinafter called "Owner") of the goodVessel built or to be built by A/S Bergens, Mek. Verksted, called the  
of 7,109.10 tons net register, classed N.V. +1A1or equivalent  
and to be so maintained during the currency of this Charter, fitted with engines ofHorsepower, 8,200 Brake, Shaft, or indicated H.P. as certified by Classi-  
fication Society, and equipped with wireless telegraph to comply with existing International  
Regulations and to allow the Vessel to communicate with land stations, VHF Radio Telephone,Suez Canal Projector, 10 inch Stern Discharge Line and Butterworth Tank Cleaning  
machinery, and fitted throughout in all cargo and bunker compartments with heating coils of  
not less than 1-1/2 inch diameter and with sufficient area to have at least one square foot  
of heater coils per 150 cu. ft. of volume, and Vessel is capable of heating cargo to a maxi-  
mum temperature of 145°F, and of maintaining such temperature throughout entire discharge,  
the Vessel being so constructed and equipped on delivery under this Charter, with regula-  
tions now existing as to permit transit of the Suez Canal with crude petroleum and/or its  
products in bulk, and the Panama Canal with Grade 'B' products in accordance with PanamaCanal Navigation regulations, and PARCEL TANKERS, INC., MONROVIA,  
Liberia

CHARTERER, as follows:

1. The Owner hereby declares that the Vessel can carry 20,180 tons (of 2,240 lbs.)  
total deadweight (as certified by Classification Society) of cargo, bunkers, water and stores

on assigned summer mean draft of 31 ft. 8 3/4 in. in salt water, corresponding to a load

line summer freeboard of 8 ft. 6 1/2 in. under present International Load Line  
Regulations, and that her load line is marked and so placed as to admit of her being safely  
loaded to such draft, and that the Vessel has a total capacity for bulk cargo, after deduc-tion of 2% for expansion, of 904,273 cubic feet in cargo  
tanks, exclusive of permanent bunkers, which have a capacity, after deduction of 2% for  
expansion, of tons (of 40 cubic feet) oil fuel. In addition it is

understanding this Vessel's characteristics are approximately the following: GWT

on 39' draft, GWT on 39' draft plus consumption to Suez Canal or Persian Gulf,

Suez Canal Net Registered Tons Beam LJA The  
deadweight, bulk cargo cubic capacity and SCRT as stipulated in this Charter are representa-  
tions by the Owner. In the event, upon measurement it is determined that actual perfor-  
mance shows any failure to satisfy one or more such representations the hire shall be  
equitably decreased so as to indemnify the Charterer to the extent of such failure, this  
Charter otherwise to remain unaffected.It is Charterer's understanding that the Suez Canal net registry is tons.  
In the event, upon measurement it is determined that the Suez Canal net registry is morethan 500 tons above or below tons, Owner and Charterer agree to an upward or  
downward hire adjustment not to exceed a maximum of ten (10) cents per deadweight ton per  
month. This hire adjustment to be calculated on the number of tons exceeding or below2. On delivery of Vessel, the Owner is to furnish the Charterer with all details required  
in the Preamble and Clauses One (1) and Eight (8) of this Charter Party and these details to  
be incorporated in the applicable Charter Party Clauses and/or an addendum hereto if re-  
quired.3. The Owner hereby lets, and the Charterer hereby hires, the Vessel as herein described  
for the term of about 8 years - 4 weeks more or less  
in Charterers' option

Charterer having the option of continuing the Charter for a further period of

by giving the Owner written notice thereof previous to expiration

of the first named term hire to commence when written notice from the Charterer has been given

to the Charterer at its office during office hours that the Vessel is at disposal at

in such ready access to such place

place where she can, always safely lie afloat, so Charterer or its agents may direct, the

Vessel being then ready with holds and cargo tanks, pipes and pumps clear and clean to

Charterer's Inspector's satisfaction and in every way fitted for the service and the carriage

of Parcel trade - see Clause 57, and being on delivery tight, staunch

and strong, after having been drydocked and painted at Owner's expense, and with pipe lines,

pumps and heater coils in good working condition, so far as the same can be attained by the

exercise of due diligence, and with full complement of Master, Officers and Crew for a vessel

of her size and character, and due diligence to be exercised to maintain her in such state

during the currency of this Charter; to be employed in any part of the world, trading between

safe ports in such lawful trade as Charterer or its agents may direct, subject to Current

Institute Tariff and Clauses, as per copy attached hereto, but including Quebec and

Owners'  
Option  
change to  
Greek flaggood  
working  
condition

See Clause No. 56.



Montreal, Canada, to ... May 15, 1973 ... unless with Charterer's consent, and the Charterer shall have liberty to cancel this Charter should Vessel not be ready in accordance with the provisions hereof before 15 days after said option of cancellation to be declared not later than the day of the Vessel's readiness.

COMMENCEMENT OF HIRE

HIRE

4. Hire shall not commence before January 15, 1973 unless with Charterer's consent, and the Charterer shall have liberty to cancel this Charter should Vessel not be ready in accordance with the provisions hereof before 15 days after said option of cancellation to be declared not later than the day of the Vessel's readiness.

5. The Charterer shall pay for the use of the Vessel hire at the rate of \$5.75 DWTM in U.S. currency on 20,180 DWT, being the DWT on a draft of 31' 8 3/4 feet consumption to the Suez Canal from the Persian Gulf, and per ton on the additional deadweight, it and when, and to the extent used regardless of trade on Vessel's deadweight as per Clause One (1) per calendar month, payment to be made in advance, monthly at semi

by check without discount less any disbursements or advances made to the Master or Owner's Agents. Charterer shall also be entitled to deduct from hire payments any previous overpayments of hire. Hire shall commence from time of delivery of the Vessel as aforesaid and shall continue until the hour of her redelivery to the Owner (unless lost) at Worldwide within I.W.L. Charterers to give 4 months notice of redelivery range and Charterer has the option of utilizing the balance deadweight up to the full deadweight of the vessel at prevailing loadline restrictions.

In the event the Charterer utilizes the Vessel's deadweight in excess of the basic deadweight of tons (2,240 lbs.) (if, when and to the extent used) the following procedure shall be followed by the Owner in submitting invoices to the Charterer for reimbursement:

1. The commencement time for a particular voyage shall be the arrival time at the loading port and will continue until departure from the final discharge port.
2. The ballast leg of the voyage shall be calculated from departure time from final discharge port to return to the same loading port. This calculation shall be made on a theoretical basis on the mileage (B.P. Tables), and Charter Party speed.

In the instances where the theoretical ballast voyage involves calculation via Suez or Panama Canal the distances used should be from departure final discharge port to arrival canal and from departure canal to theoretical arrival loading port. In addition, an allowance of 18 hours for Suez and 12 hours for Panama transits is to be made.

3. The quantity of excess deadweight utilized shall be calculated using the following formula:

Actual Tons (2,240 lbs.)	Cargo loaded (Shore figures)	
Plus: Bunkers		
Water		
Stores		
Recovered Oil (if any)		
Total		
Less: Basic deadweight		
Additional deadweight utilized		

4. Exceptions:

- a. If discharge port is the port of redelivery under Clause Five (5) hereof, hire shall cease at time of such redelivery.
- b. If vessel proceeds from loading port to discharge port via Cape of Good Hope, it is understood the ballast leg shall be calculated as if the Vessel had proceeded via the Suez Canal.
- c. If vessel is lost prior to the expiry of such voyage referred to above, hire shall cease at the time of such loss.

It is actually understood and agreed that the rate of hire referred to in Clause Five (5) includes an increment of per deadweight ton per month. With effect from the commencement of the Charter, while the Vessel is on hire it is agreed that this increment will constitute payment in full to cover the following: the following

that the Charterers will pay the owner

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Delivery of the vessel from sellers to new owners

But first 3 months to be paid monthly in advance

probable port and 15 days notice of definite port of redelivery.



- b) Cost for all telephone calls, radio messages and telegrams sent for Charterer's account.
- c) Cost of all overtime worked at request of Charterer or its Agents. In this connection the Master shall prosecute his voyage with the utmost dispatch and shall render all reasonable assistance with the Vessel's crew and equipment, overtime of Officers and Crew to be worked at request of Charterer or its Agents.

d) Less Owner's payment for heating quarters, etc.

Owner's rags, galley fuel, domestic water

7. In default of punctual and regular payment as herein specified, the Owner shall have the faculty of withdrawing the Vessel from the service of the Charterer, without prejudice to any claim it (the Owner) may otherwise have on the Charterer in pursuance of this Charter.

SPEED  
FUEL CON-  
SUMPTION  
PUMPING  
PERFORMANCE

8. The Owner stipulates that the Vessel is capable of maintaining and shall maintain throughout the period of this Charter Party on all sea passages from Seabuoys to Seabuoys speed will be determined by taking the total miles at sea divided by the total hours at sea as shown in the log books) a guaranteed minimum average speed in moderate weather of 13.75 knots (including stops at sea which are not counted as period of off hire under the terms of this Charter Party) on a guaranteed maximum daily consumption of 28 tons of (2,240 lbs.) of diesel/Bunker C/high viscosity fuel oil maximum 1,500 seconds Redwood No. 1 at 100°F. for main engine, and 1.5 tons of 2,240 lbs. of diesel oil for auxiliaries excluding heating cargo and tank cleaning. The Owner further guarantees that the vessel is equipped with 10 main cargo pumps and 2 stripping pumps giving a guaranteed discharge rate of 2,000 tons water per hour against a back pressure of 100 pounds per square inch. Under this condition vessel is capable of completing discharge of a full cargo of water in a maximum of 18 hours.

ADJUST-  
MENT OF  
HIRE

9. The speed, consumption and pumping performance guaranteed by the Owner in the paragraph above will be reviewed by the Charterer after THREE CALENDAR MONTHS counting from the time of delivery of the Vessel to the Charterer in accordance with this Charter Party and there after at the end of each THREE CALENDAR MONTHS period. If at the end of each TWELVE (12) CALENDAR MONTHS period it is found that the Vessel has failed to maintain an average during the preceding TWELVE (12) CALENDAR MONTHS period the speed and/or consumption and/or pumping performance stipulated above, the Charterer shall be retroactively compensated in respect of such failings as follows:

- a) Speed - Reduction of \_\_\_\_\_ per hour per knot or pro rata for each part of a knot below the guaranteed minimum average speed.
- b) Consumption - The Owner to reimburse the Charterer for each ton of 2,240 lbs. or pro rata for part of a ton in excess of the guaranteed maximum daily consumption for main engine and/or auxiliaries including any excess not borne by the Owner in accordance with the off-hire clause of this charter party at the average price for the Charterers contract price for the particular grade of oil at \_\_\_\_\_ (Aruba on 22-1-1961) for the total period under review.
- c) Pumping - The vessel to be considered off hire for each hour or part of an hour in excess of the maximum number of hours stipulated above for completing discharge of a full cargo of water against a back pressure of 100 pounds per square inch. Any delay to Vessel's discharge caused by shore conditions shall be taken into account in the assessment of pumping performance.

- d) Owners to have similar privileges under this Clause for increasing hire, as Charterers do for decreasing hire, should Vessel performance as concerns speed and/or consumption and/or pumping be in excess of descriptions outlined herein.

See clause 77.

In the event of Charterer having a claim in respect of Vessel's performance during the final year or part year of the Charter period and any extension thereof, the amount of such claim shall be settled in accordance with Charterer's estimate made about two months before the end of the Charter period and any necessary adjustment after the end of the Charter shall be made by the Owner to the Charterer or the Charterer to the Owner as the case may require.

10. Should the Vessel be on her voyage towards the port of redelivery at the time a payment of hire becomes due, said payment shall be made for such length of time as the Owner or its Agents and the Charterer or its Agents may agree upon as the estimated time necessary to complete the voyage, less disbursements arranged by Charterer for Owner's account, and less estimated value of fuel in bunkers at the termination of the voyage, and when the Vessel is redelivered to Owner any difference shall be refunded to or paid by the Charterer as the case may require.

The Owner understands and agrees that he will receive no credit or compensation if the Vessel is able to discharge at a rate greater than those specified above.

nor to  
voice  
Charterer  
with  
supporting  
documents

200-par  
calendar month

53,000. - not calendar month or pro rata when vessel employed in piece  
se, including all tank cleaning classes and/or vegetables and/or  
primary bulk liquid trade like molasses and/or c.p.p. and/or  
P. etc. For more than 6 consecutive months \$1500 per calendar month or  
Rate. Such overtime to be escalated with 5% P.A. compounded.

Owner for plus or minus one to  
and stripping operations due  
grades to be discharged.

at Beaufort Scale 5, and Owners will not make any speed  
claims unless speed is averaging in excess of

an hour that Vessel steams below  
stipulated in Clause 8. Calcula-  
rds with Exhibit "A" attached.  
e Vessel's performance a) and b)  
al data supplied by the Master



OFF-  
HIRE

11. In the event of loss of time from deficiency of men or stores, breakdown of machinery, interference by pirates, collision, stranding, fire or other accident or damage to the Vessel, not caused by the fault of the Charterer, preventing the working of Vessel for more than twelve consecutive hours, or in the event of loss of time from breach of orders or neglect of duty by the Master, Officers or Crew, or from deviation for the purpose of landing any injured or ill person on board other than any who may be carried at Charterer's request, payment of hire shall cease for all time lost until the Vessel is again in an efficient state to resume her service and has regained a point of progress equivalent to that when the hire ceased hereunder; cost of fuel consumed while the Vessel is off hire hereunder, as well as all port charges, pilotages and other expenses incurred during such period and consequent upon the putting in to any port or place other than to which the Vessel is bound, shall be borne by the Owner; but should the Vessel be delayed or driven into port or to anchorage by stress of weather or on account of accident to or other consideration for her cargo, such delay, departure, or loss of time, shall be for Charterer's account. If upon the voyage the speed of the Vessel be reduced, or her fuel consumption increased, by breakdown, casualty, or inefficiency of Master, Officers or Crew, so as to cause a delay of more than twenty-four hours or an excess consumption of more than one day's fuel, hire for the time lost and cost of extra fuel consumed, if any, shall be borne by the Owner. Any delay by ice or time spent in quarantine shall be for Charterer's account, except delay in quarantine resulting from the Master, Officers or Crew having communications with the shore at an infected port, where the Charterer has given the Master adequate written notice of the infection, which shall be for Owner's account, as shall also be any loss of time through detention by authorities as a result of charges of smuggling or of other infraction of law by the Master, Officers or Crew. Notwithstanding the foregoing provisions no time will be allowed Owner in excess of 144 hours annually.

12. The time the Vessel is off hire during the original term of this Charter or any extension thereof, pursuant to the provisions of this Charter, shall be added to the original term or the extension during which the time off occurs, if the Charterer so elects and gives the Owner written notice of such election at least 30 days prior to expiry of the original term or extension during which the time off occurs, but time off during the original term may not be added to any extension thereof.

LOSS OF  
VESSEL

13. Should the Vessel be lost or become a constructive total loss, hire shall cease on the day of her loss or constructive total loss, and if missing, from the date when last heard of, and any hire paid in advance and not earned shall be returned to the Charterer. If the Vessel is missing or off hire at the time when hire becomes payable, payment of said hire shall be suspended until safety is ascertained or the off hire period ceases.

LIENS

14. The Owner shall have an absolute lien on all cargoes and subfreights for all amounts due under this Charter, and Charterer shall have a lien on the Vessel for all moneys paid in advance and not earned, and for the value of fuel in bunkers.

ADVANCES

15. Any moneys advanced to the Master by the Charterer or its Agents or in payment of disbursements made for Owner's account to be subject to two and one-half per cent Commission and to be deductible from hire money earned or to be earned, and the Charterer to have a lien on the Vessel for same.

DETENTION  
BY  
LEGAL  
ACTION

16. In the event of detention of the Vessel by Authorities at home or abroad in consequence of legal action against the Vessel or Owner whereby the Vessel is rendered unavailable for Charterer's service for a period of 30 days, unless brought about by the act or neglect of the Charterer, the Charterer, by prompt written notice, shall have the election to cancel this Charter or to suspend same until the service can again be resumed, without prejudice to any right of claim for damage which the Charterer may have in the premises. Payment of hire to cease during time the Vessel may be out of Charterer's service by the cause mentioned in this clause, unless the time out is less than 24 hours in which event there is to be no interruption in hire payments.

DRY-  
DOCKING

17. When the ship is drydocked to clean and paint the bottom, the Charterer agrees to send the Vessel to a port where she can be cleared of oil and gas and drydock and paint. In such event the Owner shall always be solely responsible for clearing the Vessel of oil and gas, but the expense and time thereof shall be for Charterer's account if drydocking the Vessel is for the purpose of cleaning and painting bottom only, and for Owner's account if drydocking is for the purpose of effecting any repairs as well as cleaning and painting bottom. Incidental towages, pilotages, fuel, water and all other expenses of drydocking and painting shall be for Owner's account. In case of drydocking pursuant to this clause at a port where the Vessel loads, discharges or bunkers under Charterer's orders, hire shall be suspended from the time Vessel receives free pratique on arrival, if in ballast, or on completion of discharge of cargo, if she arrives loaded, until Vessel is again ready for service. In case Charterer sends the Vessel to a port for drydocking only, hire shall be suspended from the time of Vessel's arrival at the Seabuooy inbound until her departure from the Seabuooy outbound, and all port charges incurred and fuel and water consumed between these times are to be for Owner's account, including Agency fee, the Owner having the privilege of appointing its own agents at such port.

OWNER TO  
PROVIDE

18. The Owner shall provide and pay for all provisions, deck and engine room stores, galley and cabin stores and galley and crew fuel, and insurance on the Vessel; wages of the Master, Officers and Crew; consular fees pertaining to the Master, Officers and Crew and all fresh water used by the Vessel. For domestic purpose.

19. The Owner guarantees the Vessel is constructed and equipped to carry 28 grades of oil. If for any reason Vessel, upon arrival at loading port, is unable to load the required number of grades, Charterer will do its utmost to provide a suitable cargo consistent with Vessel's capabilities; however, if this is not possible Vessel is to proceed to the nearest repair port in ballast and repair all bulkhead leaks necessary, any time and expense being for Owner's account.

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CHARTERER  
TO  
PROVIDE

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rterers'  
perty

contract

DUTIES OF  
THE MASTER

BILLS OF  
LADING

USE OF  
VESSEL

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OF TANKS

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20. The Charterer (except during the period when the Vessel is off hire) shall provide and pay for all fuel except for galley and crew as provided in Clause Eighteen (18). The Charterer shall also pay for all port charges, light dues, dock dues, Panama and other Canal dues, pilotage, consular fees, except those pertaining to Master, Officers and Crew, tugs necessary for assisting the Vessel in, about and out of port for the purpose of carrying out this Charter, agencies, commissions, expenses of loading and unloading cargo, and all other charges whatsoever except those herein stated as payable by the Owner. The Owner shall, however, reimburse the Charterer for any fuel used or any expenses incurred in making a general average sacrifice or expenditure, and for any fuel consumed during drydocking or repair of the Vessel.

21. The Charterer shall accept and pay for all fuel in the Vessel's bunkers, upon commencement of hire, and the Owner shall pay for all oil fuel in the Vessel's bunkers, on the expiry of this Charter at current market prices of the ports where the hire begins and ends respectively, or at current market prices at the nearest recognized port where they may be secured.

Maximum Bunker Fuel Oil on delivery and redelivery to be mutually agreed tons.

22. The Master, although appointed by the Owner, shall be under the orders and direction of the Charterer as regards employment of the Vessel, Agencies, or other arrangements.

23. If the Charterer shall have reason to be dissatisfied with the conduct of the Master, or Officers, the Owner shall, on receiving particulars of the complaint, investigate it, and if necessary make a change in the appointments.

24. The Master shall be furnished by the Charterer, from time to time, with all requisite instructions and sailing directions, and both he and the Engineers shall keep full and correct logs of the voyages, which are to be patent to the Charterer and its Agents, and abstracts of which are to be sent to the Charterer from each port of call.

25. Bills of Lading are to be signed at any rate of freight the Charterer or its Agents direct, without prejudice in this Charter, the Master attending daily, if required, at the offices of the Charterer or its Agents, to do so. However, at Charterer's option, Charterer and/or its Agents may sign Bills of Lading on behalf of the Master. The Charterer hereby agrees to indemnify the Owner against all consequences or liabilities that may arise from the Master, Charterer or its Agents signing Bills of Lading or other Documents inconsistent with this Charter, or from any irregularity in papers supplied by the Charterer or its Agents, or from complying with its or its Agent's orders.

26. The whole reach and burthen of the Vessel (but not more than she can reasonably stow and safely carry) shall be at the Charterer's disposal, reserving proper and sufficient space for Vessel's Officers, Crew, Master's cabin, tackle, apparel, furniture, fuel, provisions and stores.

27. The Master will not unreasonably apply a maximum rate per hour or number of grades when loading cargo. Supplier will be able to load the Vessel at the rates they deem necessary having due regard to the safety of the Vessel. If requested by Charterer, the Master will agree to discharge more than one grade simultaneously, provided the Master is satisfied the Vessel's pumps and cargo lines are in a condition to permit such discharge. Should at any time the condition of the Vessel's pumps and cargo lines not permit loading and/or discharge of more than one grade simultaneously, the Owner will agree to carry out necessary repairs as early as possible to enable the Vessel to load and/or discharge more than one grade simultaneously.

28. The Charterer shall have the option of shipping lawful merchandise in cases and/or casks and/or other packages in the Vessel's forehold, 'tween decks and/or other suitable space available, subject, however, to the Master's approval as to kind and character, amount and stowage. All charges for dunnage, loading, stowing and discharging so incurred shall be paid by the Charterer.

29. The Charterer, subject to the Owner's approval, shall be at liberty to fit any additional pumps and/or gear for loading or discharging cargo it may require beyond what is on board at the commencement of the Charter, and to make the necessary connections with steam or water pipes, such work to be done at its expense and time, and such pumps and/or gear so fitted to be considered its property, and the Charterer shall be at liberty to remove it at its expense and time during or at the expiry of this Charter; the Vessel to be left in her original condition to the Owner's satisfaction. See Clauses 47, 72, 75.

30. Vessel is to be redelivered to the Owner at the expiry of this Charter in a clean or dirty condition at Charterer's option. Vessel to be free of cargo with tank dry certificate.

31. The last two successive cargoes carried, or to be carried, by the Vessel immediately preceding her entering upon this Charter consisted, or will consist of see Clause 70.

32. The cargo or cargoes shall be laden and discharged in any dock, or at any wharf or place that the Charterer or its Agents may direct where the Vessel can always safely lie afloat.

33. The Owner guarantees that the Vessel is constructed and equipped to carry, without admixture, at least 28 qualities or descriptions of oil; but subject to this, neither the Owner nor the Vessel shall be responsible for any admixture if more than one quality of oil is shipped, nor for leakage, contamination or deterioration in quality of the cargo unless the admixture, leakage, contamination or deterioration results from (a) unseaworthiness existing at the time of loading or at the inception of the voyage which was discoverable by the exercise of due diligence, or (b) error or fault of the servants of the Owner in the loading, care or discharge of the cargo.

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New Jason Clause as attached incorporated in this Charter party and in all its Bills of Lading issued under this Charter Party.

INJURIOUS CARGO

34. ~~No injurious cargo, including acids that are injurious to the vessel, are to be shipped, nor any voyage to be undertaken or goods or cargoes loaded that would involve risk of seizure, capture or penalty by Rulers or Governments, (it being understood that such Gasoline, Ethyl Gasoline, Benzol, Cresosote, Molasses, and the various Vegetable Oils customarily carried in tank vessels, are not to be considered as injurious). Charterer undertakes in case it employs the Vessel to carry any other cargo than oil to indemnify the Owner against any damage that may arise to such cargo owing to the Vessel having previously loaded oil, or to oil after having loaded other cargo.~~ See Clauses 56, 57, 61.

VOLATILE CARGOES

35. ~~Cargo shall not be shipped which has a vapor pressure at one hundred degrees Fahrenheit (100°F.) in excess of thirteen and one half pounds (13.5 lbs.) as determined by the current A.S.T.M. Method (Reid) D-123. Cargo having a flash point under one hundred and fifteen degrees Fahrenheit (115°F.) (closed cup) Method D-56 shall not be loaded from lighters but this clause shall not restrict the Charterer from loading or topping oil made Oil from vessels or barges inside or outside the bar at any port or place where bar conditions permit.~~ See Clause 59.

NEGLIGENCE OF PILOTS, ETC.

36. Neither the Charterer nor its Agents, nor any of its Associated or Affiliated Companies, nor any of their employees, shall be responsible for any loss, damage or liability arising from any negligence, incompetence or incapacity of any pilot, stevedore, longshoreman or the personnel of any tug or arising from the terms of the contract of employment thereof or for any unseaworthiness or insufficiency of any tug or tugs, launches or other craft, the services for which are arranged by the Charterer, and the Owner agrees to indemnify and hold Charterer harmless against any and all such loss, damage or liability but such indemnity shall not exceed the amount to which Owners would have been entitled to limit their liability if they had themselves arranged for such pilots, tug boats or stevedores.

**"STOLT TANKERS" on ships sides and to paint the hull, deck and**

HOUSE PAINT LAWS

37. The Charterer shall be allowed to fly its house flag and to paint the Vessel's funnel with its own colors, if desired at Charterer's expense, with the exception of hull and deck where limited to additional cost, if any beyond cost of Owner's normal fleet colors.

38. This Charter shall, so far as possible, be governed by the laws of the United States of America/England, except in cases of general average, which shall be adjusted, stated and settled according to York/Antwerp Rules 1950 and, as to matters not provided for in these rules, according to the laws and usages at the port of New York, England. If a General Average statement is required, it shall be prepared at such port or place in the United States of America/England as selected by the Owner, unless otherwise mutually agreed, by an adjuster appointed by the Owner and approved by the Charterer, who shall attend to the settlement and the collection of the General Average, subject to customary charges. General Average statements and/or security shall be furnished by Owner and/or Charterer, and/or owner and/or consignee of cargo, if requested. Any cash deposit being made as security to pay General Average and/or salvage shall be remitted to the Average Adjuster and shall be held by him at his risk in a special account in a duly authorized and licensed bank at the place where the General Average statement is prepared. Should the Vessel be put into a port of distress or be damaged, she is to be consigned to the Owner's Agents, paying them the usual charges and commissions.

JASON CLAUSE

39. Any provisions of this Charter to the contrary notwithstanding, the Owner shall have the benefit of all limitations of, and exemptions from, liability accorded to the Owner or Chartered Owner of Vessels by any statute or rule of law for the time being in force.

40. ~~In the event of accident, damage, loss or destruction before or after the commencement of the voyage, resulting from any cause, whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Owner is not responsible, by statute, contract or otherwise, the cargo, shippers, consignees or owners of the cargo shall contribute with the Owner in General Average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo. If a salving ship is owned or operated by the Owner, salvage shall be paid for as fully as if the said salving ship or ships belonged to strangers. Such deposit as the Owner or his Agents may deem sufficient to cover the estimated contribution of the cargo and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the cargo to the carrier before delivery.~~

EXCEPTIONS

41. The Vessel, her Master and Owner shall not, unless otherwise in this Charter expressly provided, be responsible for any loss or damage arising or resulting from: any act, neglect, default or barratry of the Master, pilots, mariners or other servants of the Owner in the navigation or management of the Vessel; fire, unless caused by the personal design or neglect of the Owner; collision, stranding, or peril, danger or accident of the sea or other navigable waters; saving or attempting to save life or property; wastage in weight or bulk, or any other loss or damage arising from inherent defect, quality or vice of the cargo; any act or omission of the Charterer or Owner, shipper or consignee of the cargo, their Agents or representatives; insufficiency of packing; insufficiency or inadequacy of marks; explosion, bursting of boilers breakage of shafts or any latent defect in hull, equipment or machinery; unseaworthiness of the Vessel unless caused by want of due diligence on the part of the Owner to make the Vessel seaworthy or to have her properly manned, equipped and supplied; or from any other cause of whatsoever kind arising without the actual fault or privity of the Owner. And neither the Vessel, her Master or Owner, nor the Charterer, shall, unless otherwise in this Charter expressly provided, be responsible for any loss or damage or delay or failure in performing hereunder arising or resulting from: act of God; act of war; perils of the seas; act of public enemies, pirates or assailing thieves; arrest or restraint of princes, rulers or people, or seizure under legal process provided bond is promptly furnished to release the Vessel or cargo; strike or lockout or stoppage or restraint of labor from whatever cause, either partial or general; or riot or civil commotion. Vessel shall have liberty to sail with or without pilots, to tow or to be towed, to go to the assistance of vessels in distress and to deviate for the purpose of saving life or property or of landing any ill or injured person on board. This clause is not to be construed as in any way affecting the provisions for cessation of hire as provided in this Charter.

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## SALVAGE

42. All salvage moneys earned by the Vessel shall be divided equally between the Owner and the Charterer after deducting Master's, Officers' and Crew's share, legal expenses, hire of Vessel during time lost, value of fuel consumed, repairs of damage, if any, and any other extraordinary loss or expense sustained as a result of the service, which shall always be a first charge on such money.

VAR  
CLAUSES

43. No contraband of war shall be shipped, but petroleum and/or its products shall not be deemed contraband of war for the purpose of this clause unless shipped or intended to be shipped to or intended for a country involved in war; nor shall the Vessel be required to enter any port that is in a state of blockade, or where hostilities are in progress, or any war zone, or zone deemed a danger zone in consequence of the existence of war, or actual hostilities, without the consent of the Owner, and if such consent be given then the Charterer will pay the cost of insuring the Vessel against all war risks in an amount equal to the value under her ordinary policy but not exceeding U.S. \$ 4,000,000.

44. In the event of the existence of war, or actual hostilities and the continuance of this Charter, the Charterer shall assume the proved additional cost of wages and insurance properly incurred in connection with the Master, Officers and Crew as a consequence of such war or actual hostilities.

45. Should the Vessel be requisitioned by any Government or Governmental Authority during the period of this Charter, she shall be off hire hereunder during the period of such requisition, and any hire or other compensation paid in respect of such requisition shall be for the Owner's account. The time the Vessel is on any such requisition shall count as part of the period provided in Clause Three (3) of this Charter.

46. Chamber of Shipping War Risks Clauses (Tankers) 1952, as attached, are deemed to be incorporated in this Charter Party.

## LAY-UP

47. The Charterer shall have the option of laying up the Vessel for all or any portion of the charter period, in which case hire hereunder, less the monthly amount of U.S. \$ 24,000 shall be paid. In addition, during the period of lay up, Charterer shall not be liable for the expenses stipulated in Clause Six (6) or Clause Twenty (20). Charterer will place Vessel in port of lay up selected by Owner in Europe, Far East or the United States and the reduction in hire will become effective Fourteen (14) days after arrival at such port and continue until 10 (ten) days prior to date vessel is again placed in service, or until termination of the Charter.

Should the Charterer, having exercised the option granted hereunder, desire the vessel again to be put into service, the Owner will, upon receipt of written notice from the Charterer to such effect, immediately take steps to restore the Vessel to service as promptly as possible. The option granted to the Charterer hereunder may be exercised one or more times during the currency of this Charter or any extension thereof. See Clause 76.

48. Damages for breach of this Charter shall include all provable damages and all costs and attorney fees incurred in any action or proceeding hereunder.

## DEMISE

49. Nothing herein contained shall be construed as creating a demise of the Vessel to the Charterer.

CLAUSE  
PARAMOUNT

50. All Bills of Lading issued hereunder shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, approved April 15, 1936, which shall be deemed to be incorporated therein, and nothing therein or herein contained shall be deemed a surrender by the Owner of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of any Bill of lading issued hereunder be repugnant to said Act to any extent, such term shall be void to that extent but no further.

BOTH TO  
BLAME  
CLAUSE

51. If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, mariner, pilot or the servants of the Owner in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder shall indemnify the Owner against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or Owner. The foregoing provisions shall also apply where the owners, operators or those in charge of any ships or objects other than, or in addition to, the colliding ships or object are at fault in respect of a collision or contact.

OIL  
POLLUTION  
AVOIDANCE

52. ~~The Owner agrees to participate in Charterer's program covering oil pollution avoidance work in Charterer's own vessels. Such program prohibits discharge overboard of all oily water, oily ballast or oil in any form of a persistent nature, except under extreme circumstances whereby the safety of the Vessel, cargo or life at sea would be imperiled.~~

Upon notice being given to the Master by radio or other means that Oil Pollution Avoidance controls are required, the Master will contain on board the Vessel all oily residues from consolidated tank washings, dirty ballast etc. in one compartment after separation of all possible water has taken place.

The oil residues will be pumped ashore at the loading or discharging terminal, either as segregated oil, dirty ballast, commingled with cargo or as is possible for Charterer to arrange with such cargo.

If the Charterer requires that demulsifiers shall be used for the separation of oil/water, such demulsifiers shall be supplied by Charterer at its expense.

~~The Owner agrees to instruct the Master to furnish Charterer with a report covering oil pollution avoidance for each voyage of the Vessel through the Vessel Charter Party.~~

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ARBITRATION

53. Any and all differences and disputes of whatsoever nature arising out of this Charter

shall be put in arbitration in the City of New York pursuant to the laws relating to arbitration there in force, before a board of three persons, consisting of one arbitrator to be appointed by the Owner, one by the Charterer, and one by the two so chosen. The decision of any two of the three on any point or points shall be final. Either party hereto may call for such arbitration by service upon any officer of the other, wherever he may be found, of a written notice specifying the name and address of the arbitrator chosen by the first moving party and a brief description of the disputes or differences which such party desires to put to arbitration. If the other party shall not, by notice served upon an officer of the first moving party within twenty days of the service of such first notice, appoint its arbitrator to arbitrate the dispute or differences specified, then the first moving party shall have the right without further notice to appoint a second arbitrator, who shall be a disinterested person with precisely the same force and effect as if said second arbitrator has been appointed by the other party. In the event that the two arbitrators fail to appoint a third arbitrator within twenty days of the appointment of the second arbitrator, either arbitrator may apply to a Judge of any court of maritime jurisdiction in the city above-mentioned for the appointment of a third arbitrator, and the appointment of such arbitrator by such Judge on such application shall have precisely the same force and effect as if such arbitrator had been appointed by the two arbitrators. Until such time as the arbitrators finally close the hearings either party shall have the right by written notice served on the arbitrators and on an officer of the other party to specify further disputes or differences under this Charter for hearing and determination. Awards made in pursuance to this clause may include costs, including a reasonable allowance for attorney's fees, and judgment may be entered upon any award made hereunder in any Court having jurisdiction in the premises.

for the balance period

COMMISSION

54. 75 per cent commission shall be due by the Vessel and her Owner on all hire as paid under this Charter to

75 percent for  
the first 12  
months and 2.5

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS CHARTER TO BE EXECUTED IN DUPLICATE THE DAY AND YEAR HEREIN FIRST ABOVE WRITTEN.

WITNESS TO SIGNATURE OF

Eric O'Halloran

WITNESS TO SIGNATURE OF

Eric O'Halloran

A. V. Spencer

Shannon Ship

Chairman

Clauses 55 to 82, both inclusive, as attached shall be deemed incorporated in this Charter Party.



Clause 55: Revised Tovalop Charter-Party Clause: Owners warrant that the Vessel is a Participating Tanker in TOVALOP and will so remain during the currency of this Charter, provided however, that if Owners acquire the right to withdraw from TOVALOP under Clause VIII thereof, nothing herein shall prevent Owners from exercising that right.

When an escape or discharge of oil (the term "oil" for the purposes of this Clause meaning "oil" as defined in TOVALOP) occurs from the Vessel and causes or threatens to cause pollution damage to coastlines. Charterers may, at their option, upon notice to Owners or Master, undertake such measures as are reasonably necessary to prevent or mitigate such damage, unless Owners promptly undertake same. Charterers shall keep Owners advised of the nature and result of any such measures taken by them, and if time permits, the nature of the measures intended to be taken by them. Any of the aforementioned measures taken by Charterers shall be deemed taken on Owners' authority and shall be at Owners' expense except to the extent that:

- (1) such escape or discharge was caused or contributed to by Charterers, or
- (2) Owners are or would have been exempt from liability for such escape or discharge by reason of the exceptions prescribed in Article III(2) of the 1969 International Convention on Civil Liability for Oil Pollution Damage, or
- (3) the cost of such measures together with Owners' own reasonable removal costs exceed One Hundred and Twenty-Five Dollars per Gross Registered Ton of the Vessel or Ten Million Dollars (whichever is less) in case the Vessel was carrying a cargo of oil not owned by an Oil Company Party to CRISTAL (as such ownership is defined in CRISTAL and the Rules promulgated thereunder) or in case the Vessel was in ballast.

PROVIDED ALWAYS that if Owners in their absolute discretion consider said measures should be discontinued, Owners shall so notify Charterers and thereafter Charterers shall have no right to continue said measures under the provisions of this Clause and all further liability to Charterers under this Clause shall thereupon cease.

The above provisions are not in derogation of such other rights as Charterers or Owners may have under this Charter, or may otherwise have or acquire by Law or any International Convention.

Clause 56: The vessel to be employed in Worldwide trading within I.W.L. where no extra insurance is involved. Charterers may with Owners' consent trade the vessel to other areas where extra insurance is involved and Owners' consent not to be unreasonably withheld and Charterer paying the extra insurance involved. The vessel shall not be required to trade to Cuba and Israel, North Korea, Red China and North Vietnam, or any other country



Clause 56  
Continued:

Charterer has the privilege to trade vessel to such port(s) or area(s) upon obtaining Owners' consent which shall not be unreasonably withheld. The Charterer has the option to trade Great Lakes during Lake season. Extra insurance involved, if any, for Charterers' account. Lake fittings, if required, for Charterers' time and account unless vessel is Lakes fitted when she enters upon this Charter Party. Owners extra cost to crew for jumping vessel in lock to be billed separately.

Clause 57:

The vessel to be employed in parcel trading with all liquids and dry cargoes that can safely be handled by tankers and for which the vessel is suitable according to tank segregation, lines and pumps. Owner shall exercise due diligence to maintain tanks' coating to Charterers' standard throughout the period of this Charter. However, if Charterer orders vessel to load cargo which is not included in the coating manufacturer's resistancy list - or approved by coating manufacturer and Owner warrants that said cargo has caused heavy and serious damage to the tank coatings, and Charterer demands repairs/recoating of such damage in excess of what can be carried out by vessel's crew, expenses for repairing damage to coatings to be borne by Charterer.

Notwithstanding the above, the Charterer has the right to load products not tested by coating manufacturer or considered harmful to the coatings, but in such case Charterer to repair and/or recoat the damage provided such repairs or recoating requested by Charterer. Whenever the words "petroleum" and "oil" appear in printed Charter Party, these shall be construed in conjunction with this clause. It is the mutual understanding between Owner and Charterer that parcel trade implies the carriage of up to as many grades as the vessel has tanks, subject only to the availability to the lines and pumps, and that pre-requisite condition for this trade is that all bulkheads, lines and valves are tight and strong.



Clause 58: Charterer shall have the option of subletting or assigning this Charter to any individual or company, but Charterer shall always remain fully responsible for the due fulfillment of the Charter in all its terms and conditions.

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Clause 59: Charterer has the right to load and discharge from/to barges when permitted by Port Authorities according to the usual practice, but only under weather conditions when no risk to the vessel according to Master's reasonable discretion.

Clause 60: Charterer may appoint a super-cargo to accompany the vessel, paying U.S.\$3.00 per day for accommodation and fare as provided for a Captain's table.

Clause 61: The Owner and the Charterer have the mutual rights of cancelling the Charter Party in case of major war between any two of the following powers: USA and/or Great Britain and/or France and/or USSR and/or People's Republic of China and/or Norway.

It is understood that "minor wars" or conflicts, like Korea and/or Suez and/or South Vietnam, etc., will be excluded.

No transport to be performed or continue to be performed under this Charter party which by the government or authorities of the country of registration or any other government or authority concerned may be deemed to be forbidden by any resolution of the Security Council of the United Nations as to the shipment of goods originating from or destined to Southern Rhodesia. Any licenses or documents which may be necessary in connection with such restrictions shall be procured by the Charterer.



- Clause 62: Owner agrees not to appoint any protective or sub-agent at ports where vessel will call under this Charter Party unless such agent is approved by the Charterer, except if a conflict of interest exists between charterers and owners, such agent is not to be a competitor of Charterers. It is understood that no agency fees will be charged to owners for normal assistance to the vessels operation.
- Clause 63: Present ordinary war and mine risk insurance, shall be for Owner's account, but war risk insurance for ship's evaluation in excess of present rates and/or extra insurance properly incurred on account of war or actual hostilities, to be for Charterer's account. Extra war insurance premium in force on the date of this Charter Party to be for Charterer's account.
- Clause 64: Any war bonus to Master, Officers and Crew and/or extra war-insurance premium in force on the date of this Charter Party to be for Charterer's account. Any increase in said war bonus to Master, Officers and Crew on account of war or actual hostilities and/or vessel's trading area, coming in to force during the currency of this Charter Party to be for Charterer's account.
- Clause 65: The vessel shall not be ordered to nor bound to enter any icebound port or place or any place where light, lightships, markers and buoys on vessel's arrival are or are likely to be withdrawn by reason of ice or where the risk that ordinarily the vessel will not be able on account of ice to enter, reach or leave the place. If on account of ice the Master considers it dangerous to enter or remain at any loading or discharging place for fear of the vessel being frozen in and/or damaged, he shall have the liberty to sail under charterers' instructions to another place or port which is free from ice and at which there are facilities for loading or discharging cargo and there await Charterer's further instruction. Any ice risk premium to be for Charterer's account. The vessel shall not be bound to force ice.
- Clause 66: The fixture including rate, terms and conditions to be kept private and confidential.
- Clause 67: The vessel shall upon delivery to Charterer and throughout the Charter Party period have valid certificates to transit the Panama and Suez Canals and at any time throughout this Charter period, meet all requirements for the carriage of solvents and/or chemicals, etc. from vessel's flag as well as all national and international regulations.

It is understood and agreed that Owner to register vessel in Tonalop and dues for same, to be for Owner's account. It is further agreed that the vessel shall upon commencement of this Charter Party comply with all requirements set forth by Federal Maritime Commission of U.S.A. according to the Water



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- Clause 67: (Cont'd) Quality Improvement Act of 1970, and Owner guarantees that the vessel at all times during the currency of this Charter Party will hold valid certificates according to this Act. It is further agreed that the Owner will arrange for other necessary certificates in relation to Oil Pollution which in the future might be required for calling ports of any country within vessel's trading limits.
- Clause 68: With regard to Clauses 40, 46 and 51, reference to these Clauses to be made in all Bills of Lading issued under this Charter Party. New Jason Clause, as attached, is deemed incorporated in this Charter.
- Clause 69: aa) Owner is at all times to keep the vessel's appearance neat and clean and painted including Charterer's House markings. Owner undertakes to maintain the machinery, boilers including exhaust boiler and freshwater evaporator in a thoroughly efficient state throughout the period of this Charter. Owner warrants that the vessel is fitted with coils in all cargo tanks in good working condition.
- bb) Owner to keep the vessel sufficiently crewed to perform all functions normally connected to parcel trade, including cleaning, sweeping (squeegeeing) of tanks without delay to vessel. Charterer to provide and pay for cost of cleaning materials. Owner is to exercise due diligence as to high standard of crew when employing same and at least Master and Chief Officer to understand and speak English properly. Sweeping (squeegeeing) money in ports where the crew is required to do the sweeping to be paid by Charterer to the Owners as follows:
- a) Lumpsum U.S. Dollars 120 per tank of 1,000 CBM or larger
- b) Lumpsum U.S. Dollars 90 per tank or less than 1,000 CBM
- Above lumpsums to be escalated with 5% per annum compounded.
- Clause 70: Upon delivery of vessel to Charterer all of vessel's coated tanks shall be clean to Charterer's Inspector's satisfaction for chemicals and/or solvents while all uncoated tanks shall be completely free of all rust and scale and clean to Charterer's Inspector's satisfaction for lubricating oils and/or vegetable oils and/or tallows and/or fats and/or waterwhite petroleum products and/or clean petroleum products and/or caustic soda, 47/50% solution.
- Clause 71: Chamber of Shipping War Risk Clauses (Tankers) 1952 1/2/3, as attached, to be incorporated in this Charter Party.



Clause 72: Charterer shall have the right to upgrade the vessel for his time and for his account by fitting of additional pumps and/or other permanent or portable equipment and/or tank coatings and/or lower vessel's coils in tanks where required. Subject Owner's approval (which shall not be unreasonably withheld) prior to redelivery, Charterer shall remove permanent or portable equipment on his time and for his account, the vessel to be left in her original condition to the owners' satisfaction, or at Charterer's option to leave such equipment onboard to become Owner's property free of charge to Owner.

Care and normal maintenance for such equipment, if any, to be effected by vessel's crew for Owner's account, but beyond the crew's capability to be for Charterer's account as well as spare parts.

Clause 73: Owner at all times to supply minimum 8(eight) Butterworth machines and sufficient hoses to operate same.

Clause 74: During the currency of this Charter Party, Owner shall not bring the vessel on the market for sale unless he has obtained Charterer's prior consent, except for the sale where Amership Agency, Inc. will remain the managing agents of the vessel, in which case the vessel will not be placed on the market.

Clause 75: Upon the expiration of this Charter Party Owner immediately to rename vessel ("STOLT" as first part of name to be deleted) unless he has obtained Charterer's prior consent to keep vessel's name unchanged.

Clause 76: During off-hire periods, Charterer has the right to replenishment of fuels and/or cleaning of tanks and/or conversion works as per Clause 29/72 provided above is not interfering with Owner's own works and provided yard/harbour authorities consent. (See also Clauses 29/47/72). This Clause 76 is not valid in case of disputed off hire.

Clause 77: aa) Owner to have similar privileges under Clause 9 for receiving compensation as Charterer does should vessel's performance as concerns speed to be in excess or consumption to be below the description outlined herein.

bb) Charterer shall have the right to deduct claims resulting from poor performance from monthly hire payments after Owner has reviewed statistical data and claim presented by Charterer, Owner agrees to complete this review within thirty (30) days after receipt of claim of Charterer. If Owner fails to reply within thirty (30) days, Charterer to have the right to automatically deduct amount of claim from next hire payment.



Clause 77:  
(Cont'd)

EXHIBIT "A"

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With reference to Clauses 8 and 9 the Speed Performance shall be calculated as follows:

Speed Performance Calculation

1. Average speed under mod. weather conditions as per line 148 divided by the speed stipulated in Clause 8 times actual hours under all weather conditions as per line 148 equals Charter Party Hours.
2. Actual hours under moderate weather conditions as per line 148 less Charter Party Hours times hire per hour equals speed difference.

EXAMPLE: 1.  $\frac{13.0 \text{ knots}}{13.75 \text{ knots}} = 0.94545 \times 4800 \text{ hours} = 4538$   
Charter Party Hours

2. 4800 actual hours  
-4538 Charter Party Hours  
262 hours x U.S. Dollars 158.95 per hour

To Calculate Hire Rate Per Hour

$\frac{\text{US Dollars } 5.75 \times 20,180 \times 12 \text{ months}}{365 \text{ days} \times 24 \text{ hours}} = \text{hire per hour US Dollars } 158.95$

Clause 78: With reference to line No. 4 of this Charter Party, Charterer shall propose a "STOLT" - name to the Owner which will be subject to Owner's reasonable approval.

Clause 79: It is understood that Charterer shall have the right during the currency of this Charter Party to arrange for tanks to be recoated when desirable by Charterer and at their expense. Such work to be performed during Owners' normal drydocking and shall not interfere with Owners' work. Any time for such coating work beyond Owners' normal intended drydock and repair time, as specified by yards bid (which must include time) and class requirements to be counted as on-hire time at Owners' proven cost, but maximized to actual Time Charter hire. Charterers will provide and pay for such coating material and labor. Owners will subsequently maintain the coating as per Clauses 57 and 80.

Clause 80: Charterers and Owners will appoint a coating manufacturer's representative to conduct an on-hire survey of coating condition. Such surveys will be repeated annually for coating maintenance. Such survey reports shall be deemed conclusive and binding on both parties. Cost of such surveys to be shared by Owners and Charterers fifty-fifty (50/50).

With reference to Clauses 57 and 79 above, it is agreed that owners will at least maintain the coating in the vessel to the standard it was when Owners took the vessel over from A/S Facto as evidenced by survey



A-45

Clause 80:  
(Cont'd)

above. This Clause notwithstanding other rights and/or obligations for both Owners and Charterers under this Charter Party.

Clause 81:

With reference to line 13 in preamble: It is understood that vessel will occasionally carry part cargoes of high-heat commodities requiring heat up to 180°F provided vessel is capable, with Owner's permission but not unreasonably withheld. This Clause to be seen in conjunction with Clause 57. It is understood that Charterers shall advise Owners of such high-heat requirements.

Clause 82:

Charter Assignment and Consent and Agreement to Charter Assignment as per specimen attached are acceptable by the Charterers.



A-46

CHARTER ASSIGNMENT

SHIPPING, INC., a corporation organized and existing under the laws of the Republic of Liberia (hereinafter called the "Assignor"), in consideration of One Dollar (\$1), lawful money of the United States of America, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has sold, assigned, transferred and set over and by this instrument does sell, assign, transfer and set over unto ARMCO FINANCIAL CORPORATION AG a corporation organized and existing under the laws of Switzerland (hereinafter called the "Assignee"), and unto the Assignee's successors and assigns, to its and its successor's and assigns' own proper use and benefit, all right, title and interest of the Assignor under, in and to (i) that certain Time Charter Party dated , 1973, (hereinafter referred to as the "Charter") between the Assignor, as owner, and , a corporation, as charterer (hereinafter referred to as the "Charterer") covering the <sup>Nova</sup> Liberian motor vessel STOLT HAWK (to be renamed ), as the same may hereafter, with the consent of the Assignee, be amended or supplemented from time to time, (ii) all moneys and claims for moneys due and to become due to the assignor from said Charterer and all claims for dam-



ages arising out of the breach of and all rights to terminate said Charter, (iii) all moneys and claims for moneys due and to become due to the Assignor and all claims for damages in respect of the actual or constructive total loss of, or requisition of, the vessel performing said Charter and (iv) any proceeds of any of the foregoing.

The rights hereby assigned include, without limitation thereto, the right of the Assignor to receive all moneys due and to become due to the Assignor under said Charter, as well as the right to perform said Charter upon the happening of any default in the obligations of the Assignor to the Assignee, and may be further assigned in connection with the enforcement of the security interest of the Assignee therein; and the obligations of the Assignor under said Charter may be performed by the Assignee or its nominee, or any other assignee, upon the happening of any such default, without releasing the Assignor therefrom or, unless otherwise expressly agreed to in writing by the party to be bound thereby, providing for or resulting in any assumption thereof.

It is expressly agreed that anything herein contained to the contrary notwithstanding, the Assignor shall remain liable under said Charter to perform all of the obligations assumed by it thereunder and the Assignee shall have no ob-



ligation or liability under the Charter by reason of or arising out of this instrument of assignment nor shall the Assignee be required or obligated in any manner to perform or fulfill any obligations of the Assignor under or pursuant to said Charter or to make any payment or to make any inquiry as to the nature or sufficiency of any payment received by it or to present or file any claim, or to take any other action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled to hereunder at any time or times.

The Assignor does hereby ratify and confirm said Charter and does hereby warrant and represent that said Charter is in full force and effect and enforceable in accordance with its terms and that the Assignor is not in default under any of the terms thereof.

The Assignor does hereby constitute the Assignee, its successors and assigns, the Assignor's true and lawful attorney, irrevocably, with full power (in the name of the Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys due and to become due under or arising out of said Charter, to endorse any checks or other instruments or orders in connection therewith and to file any claims or to take any



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4.

action or institute any proceedings which to the Assignee may seem to be necessary or advisable in the premises.

The powers and authority granted to the Assignee herein have been given for a valuable consideration and are hereby declared to be irrevocable.

The Assignor agrees that at any time and from time to time, upon the written request of the Assignee, the Assignor will promptly and duly execute and deliver any and all such further instruments and documents as the Assignee may deem desirable in obtaining the full benefit of this Assignment and of the rights and powers herein granted.

The Assignor does hereby warrant and represent that neither the whole nor any part of the rights, title and interest hereby assigned are the subject of any present assignment or pledge, and hereby covenants that, without the prior written consent thereto of the Assignee, so long as this instrument of assignment shall remain in effect, it will not assign or pledge the whole or any part of such right, title and interest to anyone other than the Assignee, its successors or assigns, and it will not take or omit to take any action, the taking or omission of which might result in an alteration or impairment of said Charter or this Assignment or of any of the rights created by said Charter or this Assignment.



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5.

No amendment or modification of the Charter and no consent, waiver or approval with respect thereto shall be valid unless joined in, in writing, by the Assignee. No notice, request or demand under the Charter shall be valid as against the Assignee unless and until a copy thereof is furnished to the Assignee.

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed this            day of            , 1973.

SHIPPING INC.

By \_\_\_\_\_  
[Title]



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CONSENT AND AGREEMENT

TO

CHARTER ASSIGNMENT DATED , 1973

The undersigned, the Charterer referred to in the foregoing Charter Assignment executed by Shipping Inc., dated , 1973, in favor of Armco Financial Corporation AG and the Charter referred to therein in consideration of One Dollar (\$1) lawful money of the United States of America to it have been paid, does hereby acknowledge notice of and consents and agrees to the foregoing Assignment and agrees that (i) it will make payment of all moneys due and to become due under the above-mentioned Charter direct to the Assignee at Franklin National Bank, 130 Pearl Street, New York, N.Y. 10005 or at such other place as the Assignee may from time to time designate, until receipt of written notice from said Assignee that all obligations of the Assignor to it have been paid in full and (ii) that any such payments shall be final and the undersigned will not seek to recover from the Assignee for any reason whatsoever any moneys paid by the undersigned to the Assignee by virtue of the foregoing Assignment and this Consent and Agreement, provided, however, that this Assignment is without prejudice



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12.

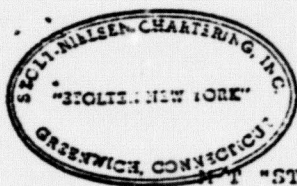
to any rights which the undersigned would have under said Charter  
to set off amounts due to it by the Assignor thereunder or  
to recover from the Assignor for any overpayments which  
may be made thereunder.

Dated:

By

\_\_\_\_\_  
[Title]





COPY

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X

SIDE LETTER I

M/T "STOLT HAWK" TO BE RENAMED M/T "STOLT ARGODAY"

Charter Party dated February 6, 1973, between SOUNION SHIPPING, INC. (Amership Agency, Inc. as Managers) and PARCEL TANKERS, INC.

Notwithstanding the wording of Clauses 19 and 33 of the herein referred to Charter Party, it is hereby agreed that the correct wording of these Clauses shall be as follows:

19. The Owner guarantees the Vessel is constructed to carry 28 grades of oil. If for any reason Vessel, upon arrival at loading port, is unable to load the required number of grades, Charterer will do its utmost to provide a suitable cargo consistent with Vessel's capabilities; however, if this is not possible Vessel is to proceed to the nearest repair port in ballast and repair all bulkhead leaks necessary, any time and expense being for Owner's account.
33. The Owner guarantees that the Vessel is constructed to carry, without admixture, at least 28 qualities or descriptions of oil. but subject to this, neither the Owner nor the Vessel shall be responsible for any admixture if more than one quality of oil is shipped, nor for leakage, contamination or deterioration in quality of the cargo unless the admixture, leakage, contamination or deterioration results from (a) unseaworthiness existing at the time of loading or at the inception of the voyage which was discoverable by the exercise of due diligence, or (b) error or fault of the servants of the Owner in the loading, care or discharge of the cargo.

FOR SOUNION SHIPPING, INC.

FOR PARCEL TANKERS, INC.

*[Signature]*

(AMERSHIP AGENCY, INC., By:  
As Managers)

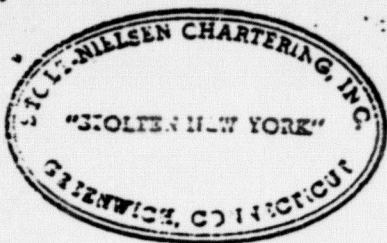
Witness: *[Signature]*  
Greenwich, Connecticut  
February 6, 1973

*[Signature]*

STOLT-NIELSEN CHARTERING, INC.  
As Brokers Only

Witness: *[Signature]*





COPY

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SIDE LETTER II

M/T "SOLT HAWK" TO BE RENAMED M/T "STOLT ARGOBAY"

Charter Party dated February 6th, 1973, between SOUNION SHIPPING, INC. (Amership Agency, Inc. as Managers) and PARCEL TANKERS, INC.

With reference to Clause 66 bb), the Owner warrants that the vessel will carry a so-called "blue card" proving I.T.F. standards are being met, if and/or when required.

Witnessed by:

*Eric O'Halloran*

For PARCEL TANKERS, INC.

*[Signature]*  
By: STOLT-NIELSEN CHARTERING, INC.  
As Brokers Only

Witnessed by:

*Eric O'Halloran*

For SOUNION SHIPPING, INC.

*[Signature]*  
By: AMERSHIP AGENCY, INC.  
As Managers

Greenwich, Connecticut  
February 6, 1973





# COPY

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SIDE LETTER III

M/T "STOLT HAWK" TO BE RENAMED M/T "STOLT ARGOBAY"

Charter Party dated February 6th, 1973, between SOUNION SHIPPING, INC. (Ameriship Agency, Inc. as Managers) and PARCEL TANKERS, INC.

After twelve (12) months trading under the within Charter Party, Charterers agree to review the speed, if Owners find that the Charter Party speed of 13.75 knots is excessive. The burden of technical proof of speed deficiency shall then be on the Owners, including, but not limited to, technical proof that the main engine has always been run at normal service output in accordance with manufacturer's stipulations.

FOR SOUNION SHIPPING, INC.

(AMERSHIP AGENCY, INC.,  
As Managers)

Witnessed by:

FOR PARCEL TANKERS, INC.

(STOLT-NIELSEN CHARTERING, INC.  
As Brokers Only)

Witnessed by:

Greenwich, Connecticut  
February 6, 1973



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FILE COPY  
RECEIVED  
OCT 15 1976  
10-15-76  
R  
E  
MT.

Rec/h.  
10/15/76  
M.P.

-----  
SOUNION SHIPPING, INC., as Owner of the  
M.T. STOLT ARGOBAY, and ARMCO FINANCIAL  
CORPORATION AG, as Mortgagee of the M.T.  
STOLT ARGOBAY and Charter Party Assignee, :  
Plaintiffs, : 76 Civ. 3705  
-- against -- : (LPG)  
PARCEL TANKERS, INC., as Charterer of the :  
M.T. STOLT ARGOBAY, in personam, and Sub- : REPLY TO  
Freights of the M.T. STOLT ARGOBAY, in rem, : COUNTERCLAIMS  
Defendants. :  
----- X

Plaintiff Sounion Shipping, Inc. by its attorneys  
Freehill, Hogan & Mahar and plaintiff Armco Financial Corpor-  
ation AG by its attorneys Burlingham, Underwood & Lord, for  
and as the reply to the counterclaims asserted herein, allege  
upon information and belief as follows:

1. Deny the allegations of paragraphs 31, 33, 35,  
36, 37, 38, 39, 40 and 41.
2. Admit the allegations of paragraph 32.
3. Admit that the charterer has been directed by  
the arbitrators to pay hire due from July 23, 1976 to the date  
of the award, September 16, 1976, which payment has not been  
received to date, and except as so admitted deny the allegations  
of paragraph 34.

AS AND FOR A FIRST DEFENSE TO THE COUNTER-  
CLAIMS PLAINTIFFS SOUNION SHIPPING, INC. AND  
ARMCO FINANCIAL CORPORATION AG BY THEIR AT  
TORNEYS ALLEGE UPON INFORMATION AND BELIEF  
AS FOLLOWS:

4. Clause 53 of the Charter Party herein involved  
is fully set forth in paragraph 18 of the complaint, and is  
incorporated as if fully set forth at length herein.

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5. Pursuant to said Clause 53, plaintiffs have the right to arbitration, and on or about September 15, 1976, plaintiff Sounion Shipping, Inc. and defendant Parcel Tankers, Inc. convened to arbitrate the disputes between the parties, including those contained in the counterclaims alleged.

6. Plaintiffs reserve all of their rights to proceed with the aforementioned arbitration and to have judgment entered upon any award made by the arbitration panel in their favor, pursuant to the terms of Clause 53.

AS AND FOR A SECOND DEFENSE TO THE COUNTER-CLAIMS PLAINTIFFS SOUNION SHIPPING, INC. AND ARMCO FINANCIAL CORPORATION AG, BY THEIR ATTORNEYS, ALLEGE UPON INFORMATION AND BELIEF AS FOLLOWS:

7. The counterclaims fail to state a claim upon which relief can be granted against the M.T. STOLT ARGOBAY in that the counterclaims contain no allegation of jurisdiction over the M.T. STOLT ARGOBAY as required by Rule C(2) of the Supplemental Rules for Certain Admiralty and Maritime Claims, and the M.T. STOLT ARGOBAY is not now nor during the pendency of this action will it be within this District or within the jurisdiction of this Honorable Court.

Dated: New York, New York  
October 13, 1976

FREEMILL HOGAN & MAHAR  
Attorneys for Plaintiff  
Sounion Shipping, Inc.

By Philip V. Hoyle  
Philip V. Hoyle  
Office & P. O. Address:  
21 West Street  
New York, New York 10004

BURLINGHAM UNDERWOOD AND LORD  
Attorneys for Plaintiff  
Armco Financial Corporation AG

By Joseph C. Smith  
Joseph C. Smith  
Office & P. O. Address:  
One Battery Park Plaza  
New York, New York 10004



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FILE COPY  
HAIGHT, GARDNER, POOR & HAVENS  
ONE STATE STREET PLAZA NEW YORK  
9-30-76  
ENTERED

-----x  
SOUNION SHIPPING INC.,  
et al.,

Plaintiffs

-against-

PARCEL TANKERS, INC.,  
et al.,

Defendants.  
-----x

BY: REA  
: ORDER TO SHOW CAUSE

: 76 Civ. 3705 LPG

Upon the application of defendant, Parcel Tankers, Inc., and the annexed affidavit of Richard G. Ashworth, sworn to the 21st day of September, 1976, it is

ORDERED that plaintiffs, Sounion Shipping Inc. and Armco Financial Corporation A.G., show cause at Room 301, United States Courthouse, Foley Square, on the 24<sup>th</sup> day of September, 1976 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, why an order should not be entered pursuant to Supplemental Rule E (7) of the Federal Rules of Civil Procedure requiring plaintiffs to give security in the usual amount and form, or other form satisfactory to defendant, to respond in damages to the claims set forth in defendant's counterclaim; and be it further

ORDERED that service by hand of a copy of this order, and the papers upon which it is granted, upon counsel for plaintiffs by 5:00 o'clock in the afternoon of the 21<sup>st</sup> day of September, 1976 shall be good and sufficient service.

Dated: New York, New York  
September 21, 1976

*Leo J. J. J.*  
U.S.D.J.  
*md*

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
SOUNION SHIPPING INC., :  
et al., :  
Plaintiffs : AFFIDAVIT  
-against- : 76 Civ. 3705 LPG  
PARCEL TANKERS, INC., :  
et al., :  
Defendants. :  
-----x

RICHARD G. ASHWORTH, being duly sworn, deposes  
and says that:

(1) He is a member of the firm of Haight,  
Gardner, Poor & Havens, attorneys for defendant herein, and  
fully familiar with the pleadings and proceedings heretofore  
had herein.

(2) On August 19, 1976 the complaint herein was  
filed and process of maritime attachment and garnishment  
was caused to be issued, whereunder bank accounts belonging  
to defendant were attached for the amount sued upon in the  
complaint, \$1,154,714. In order to obtain the release of  
the attachments, defendant arranged security satisfactory  
to plaintiffs in the form of a letter of undertaking in the  
amount of \$1,155,000 by defendant's insurers, which  
security was agreed upon on August 24th, and the attachments  
released.

(3) Plaintiffs' action arises out of alleged  
breach of a time-charter of the M/T Stolt Argobay dated  
February 6, 1973 between plaintiff Sounion Shipping Inc.  
("Sounion"), as owner, and defendant, as charterer. By  
addendum dated July 8, 1974 it was agreed that hire would  
be paid to the vessel's mortgagee, plaintiff Armco Financial



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2

Corporation A. G. ("Armco"). A copy of the Charterparty and addendum as annexed hereto as Exhibit 1.

(4) The parties agreed to submit to arbitration the claims set forth in the complaint, and at the first arbitration session, on September 15th, plaintiffs asked the arbitrators to make an interim award on their first cause of action, for payment of \$154,714 hire withheld by defendant on account of loss of time because of the unavailability of the vessel for use under the charter. On September 16th the arbitrators rendered an interim decision, a copy of which is attached hereto as Exhibit 2, directing defendant to pay the full hire withheld, which now amounts to \$223,702.21, without prejudice to its claims. Defendants has been since September 15th and is presently presenting evidence before the arbitrators in proof of its assertion that the Stolt Argobay was off-hire and that the hire withheld was not earned. The arbitrators have not ruled upon the merits of defendant's position.

(5) Last Friday, September 17th, the day after the interim arbitration decision was rendered, deponent advised counsel for plaintiffs that defendant was prepared to comply with the interim arbitration decision, and asked that plaintiff Armco agree to return to defendant up to the amount so paid any amount which might be awarded by the arbitrators in favor of defendant and also requesting agreement to reduce the amount of the security furnished by defendant to respond for the portion of plaintiffs' claim so paid. Plaintiffs did not reply,

and accordingly on September 20th deponent inquired whether the proposed arrangement was satisfactory, and plaintiffs' counsel stated that the security would be reduced, but that no agreement would be made to repay the hire in the event of a final arbitration decision in defendant's favor.

(6) The situation thus created poses a serious dilemma for defendant: in order to comply with the interim arbitration award it must pay \$223,702.21 to defendant Armco, which did not assume the obligations of the vessel owner under the charterparty, and if defendant finally prevails in the arbitration it may be unable to collect from defendant Sounion the amount so paid.

(7) Deponent believes that the arbitrators do not have power to require security to be furnished pursuant to the Federal Rules of Civil Procedure, and there is no provision in the charterparty pursuant to which defendant would be entitled to seek a ruling from the arbitrators as to security.

(8) Defendant is filing simultaneously with this application its answer and counterclaim, setting forth as its first cause of action claim for the damages which compliance with the interim arbitration decision will cause it to suffer as a result of plaintiff Sounion's breach of the charterparty.

(9) Defendant makes this application for an order requiring plaintiffs to give counter security pursuant to FRCP Supplemental Rule E (7) by order to show cause rather than by notice of motion in view of the



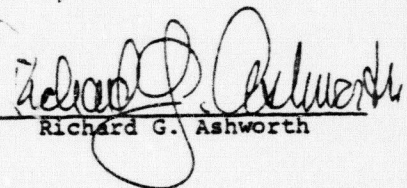
A-62

4

unexpected development culminatiing in the interim arbitration decision at the end of last week requiring defendant to pay the withheld hire in advance of the arbitrators' decision on the merits as to whether vessel was offhire, as contended by defendant.

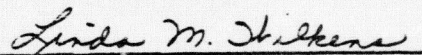
(10) Defendant wishes to and is prepared to comply with the interim arbitration decision, but may suffer irreparable harm if it does so in the absence of counter security to insure repayment of such payment in the event of a final arbitration award in defendant's favor.

(11) No previous application for this or similar relief has been sought.

  
Richard G. Ashworth

Sworn to before me this

21<sup>st</sup> day of September, 1976

  
Notary Public

LINDA M. WILKENS  
Notary Public, State of New York  
No. 41-9672488  
Qualified in Queens County  
Certificate filed in New York County  
Term Expires March 30, 1978



February 6 1973

DESCRIPTION  
OF  
VESSEL

160°F

DEAD-  
WEIGHT

PER 100

**ONC  
DELIVERY**

TEAGE

Owners' option change to Greek flag

good  
working  
condition

1. The Owner hereby declares that the Vessel can carry 20,180 tons (of 2,240 lbs.) total deadweight (as certified by Classification Society) of cargo, bunkers, water and stores on assigned summer mean draft of 31 ft. 8 3/4 in. in salt water, corresponding to a load line summer freeboard of 8 ft. 6 1/4 in. under present International Load Line Regulations, and that her load line is marked and so placed as to admit of her being safely loaded to such draft, and that the Vessel has a total capacity for bulk cargo, after deduction of 25 for expansion, of 904,273 cubic feet in cargo tanks, exclusive of permanent bunkers, which have a capacity, after deduction of 25 for expansion, of \_\_\_\_\_ tons (of 40 cubic feet) oil fuel. ~~In addition it is Charterers' understanding this Vessel's characteristics are approximately the following: DWT \_\_\_\_\_ on 39' draft, DWT \_\_\_\_\_ on 33' draft plus consumption to Suez Canal or Persian Gulf, Suez Canal Net Registered Tons \_\_\_\_\_, Beam \_\_\_\_\_, TPA \_\_\_\_\_.~~ The deadweight, bulk cargo cubic capacity and ~~DWT~~ as stipulated in this Charter are representations by the Owner. In the event, upon measurement it is determined that actual performance shows any failure to satisfy one or more such representations the hire shall be equitably decreased so as to indemnify the Charterer to the extent of such failure, this Charter otherwise to remain unaffected.

It is Charterer's understanding that the Suez Canal net registry is \_\_\_\_\_ tons. In the event, upon measurement it is determined that the Suez Canal net registry is more than 500 tons above or below \_\_\_\_\_ tons, Owner and Charterer agree to an upward or downward hire adjustment not to exceed a maximum of ten (10) cents per deadweight ton per month. This hire adjustment to be calculated on the number of tons exceeding or below \_\_\_\_\_ tons.

2. On delivery of Vessel, the Owner is to furnish the Charterer with all details required in the Prosele and Clauses One (1) and Eight (8) of this Charter Party and these details to be incorporated in the applicable Charter Party, Clauses and/or an addendum hereto if required.

3. The Owner hereby lets, and the Charterer hereby hires, the Vessel as herein described for the term of about 8 years - 4 weeks more or less, the in Charterers' option, the Charterer having the option of extending the Charter for a further period of \_\_\_\_\_.

by giving the Charterer notice not later than fifteen days prior to expiration  
of the first month's hire to commence when written notice from the charterer has been given  
to the Charterer and upon receipt of such notice the Vessel is at disposal at  
any port UNC-FEB-USA-FAREAST within Charterers'  
place where she can receive cargo subject to clearance and to goods received on  
Vessel being then ready with holds and cargo tanks, pipes and pumps clear and clean to  
Charterer's Inspector's satisfaction and in every way fitted for the service and the carriage

or Purcell trade - see Clause 57



probable port and 15 days notices of definite port of redelivery.

that the Charterers will pay  
the owner

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However Charterers to receive 5 (five) days of grace after Owners' notification of nonpayment.

at Beaufort Scale 5, and Owners will not make any speed claims unless speed is averaging in excess of

nt to Charterer of U.S. Dollars \$158.95 per hour or each part of an hour that Vessel steams below minimum speed stipulated in Clause 8. Calculations to be made in accordance with Exhibit "A" attached.

determining the Vessel's performance a) and b) the statistical data supplied by the Master with Clause 24.

a) Expenses and cost of extra ... trailing ... incurred by the Master on Charterer's account.	127
b) Cost for all telephone calls, radio messages and telegrams sent for Charterer's account.	128
c) Cost of all overtime worked at request of Charterer or its Agents. In this connection the Master shall prosecute his voyage with the utmost dispatch and shall render all reasonable assistance with the Vessel's crew and equipment, overtime of Officers and Crew to be worked at request of Charterer or its Agents.	129
d) Less Owner's payment for heating quarters, etc.	130
Owner's rags, galley fuel, domestic water	131
7. In default of punctual and regular payment as herein specified, the Owner shall have the faculty of withdrawing the Vessel from the service of the Charterer, without prejudice to any claim it (the Owner) may otherwise have on the Charterer in pursuance of this Charter.	132
8. The Owner stipulates that the Vessel is capable of maintaining and shall maintain throughout the period of this Charter Party on all sea passages from Seaboard to Seaboard speed will be determined by taking the total miles at sea divided by the total hours at sea as shown in the log books) a guaranteed minimum average speed in moderate weather of 13.75 knots (including stops at sea which are not counted as period of off hire under the terms of this Charter Party) on a guaranteed maximum daily consumption of 28 tons of (2,240 lbs.) of diesel/Bunker C/high viscosity fuel oil maximum 1,500 seconds Reduced No. 1 at 100°F. for main engine, and 1.5 tons of 2,240 lbs. of diesel oil for auxiliaries including heating cargo and tank cleaning. The Owner further guarantees that the vessel is equipped with 10 main cargo pumps and 2 stripping pumps giving a guaranteed discharge rate of 2,000 tons water per hour against a back pressure of 100 pounds per square inch. Under this condition vessel is capable of completing discharge of a full cargo of water in a maximum of 18 hours.	133
9. The speed, consumption and pumping performance guaranteed by the Owner in the paragraph above will be reviewed by the Charterer after THREE CALENDAR MONTHS counting from the time of delivery of the Vessel to the Charterer in accordance with this Charter Party and thereafter at the end of each THREE CALENDAR MONTHS period. If at the end of each TWELVE (12) CALENDAR MONTHS period it is found that the Vessel has failed to maintain as an average during the preceding TWELVE (12) CALENDAR MONTHS period the speed and/or consumption and/or pumping performance stipulated above, the Charterer shall be retroactively compensated in respect of such failings as follows:	134
a) Speed - Reduction of ... per knot ... for each part of a knot below the guaranteed minimum average speed.	135
b) Consumption - The Owner to reimburse the Charterer for each ton of 2,240 lbs. or pro rata for part of a ton in excess of the guaranteed maximum daily consumption for main engine and/or auxiliaries including any excess not borne by the Owner in accordance with the off-hire clause of this charter party at the ... price for the particular grade of oil at ... for the total period under review.	136
c) Pumping - A vessel to be considered off hire for each hour or part of an hour in excess of a maximum number of hours stipulated above for completing discharge of a full cargo of water against a back pressure of 100 pounds per square inch. Any delay to Vessel's discharge caused by shore conditions shall be taken into account in the assessment of pumping performance.	137
d) Owners to have similar privileges under this Clause for increasing hire, as Charterers do for decreasing hire, should Vessel performance as concerns speed and/or consumption and/or pumping be in excess of descriptions outlined herein.	138
See clause 77.	139
In the event of Charterer having a claim in respect of Vessel's performance during the final year or part year of the Charter period and any extension thereof, the amount of such claim shall be settled in accordance with Charterer's estimate made about two months before the end of the Charter period and any necessary adjustment after the end of the Charter shall be made by the Owner to the Charterer or the Charterer to the Owner as the case may require.	140
10. Should the Vessel be on her voyage towards the port of redelivery at the time a payment of hire becomes due, said payment shall be made for such length of time as the Owner or its Agents and the Charterer or its Agents may agree upon as the estimated time necessary to complete the voyage, less disbursements arranged by Charterer for Owner's account, and less estimated value of fuel in bunkers at the termination of the voyage, and when the Vessel is redelivered to Owner any difference shall be returned to or paid by the Charterer as the case may require.	141

The Owner understands and agrees that he will receive no credit or compensation if the Vessel is able to discharge at a rate greater than those specified above.

... including all fast cleaning ... however, when if vessel employed in ... or C.P.D. and/or ... such overtime to be escalated with 5% P.A. compounded. ... month or ... grades to be discharged. ... and stripping operations due to sequence etc



OFF-  
HIRE

11. In the event of loss of time from deficiency of man or stores, breakdown of machinery, interference by Authorities, collision, stranding, fire or other accident or damage to the Vessel, not caused by the fault of the Charterer, preventing the working of Vessel for more than twelve consecutive hours, or in the event of loss of time from breach of orders or neglect of duty by the Master, Officers or Crew, or from deviation from the voyage or landing any injured or ill person on board other than any who may be carried at Charterer's request, payment of hire shall cease for all time lost until the Vessel is again in an efficient state to resume her service and has regained a point of progress equivalent to that when the hire ceased hereunder; cost of fuel consumed while the Vessel is off hire hereunder, as well as all port charges, pilotages and other expenses incurred during such period and consequent upon the putting in to any port or place other than to which the Vessel is bound, shall be borne by the Owner; but should the Vessel be delayed or driven into port or to anchorage by stress of weather or on account of accident to or other consideration for her cargo, such delay, departure, or loss of time, shall be for Charterer's account. If upon the voyage the speed of the Vessel be reduced, or her fuel consumption increased, by breakdown, casualty, or inefficiency of Master, Officers or Crew, so as to cause a delay of more than twenty-four hours or an excess consumption of more than one day's fuel, hire for the time lost and cost of extra fuel consumed, if any, shall be borne by the Owner. Any delay by ice or time spent in quarantine shall be for Charterer's account, except delay in quarantine resulting from the Master, Officers or Crew having communications with the shore at an infected port, where the Charterer has given the Master adequate written notice of the infection, which shall be for Owner's account, as shall also be any loss of time through detention by Authorities as a result of charges of smuggling or of other infraction of law by the Master, Officers or Crew. Notwithstanding the foregoing provisions no time will be allowed Owner in excess of 144 hours annually.

12. The time the Vessel is off hire during the original term of this Charter or any extension thereof, pursuant to the provisions of this Charter, shall be added to the original term or the extension during which the time off occurs, if the Charterer so elects and gives the Owner written notice of such election at least 30 days prior to expiry of the original term or extension during which the time off occurs, but time off during the original term may not be added to any extension thereof.

LOSS OF  
VESSEL

13. Should the Vessel be lost or become a constructive total loss, hire shall cease on the day of her loss or constructive total loss, and if missing, from the date when last heard of, and any hire paid in advance and not earned shall be returned to the Charterer. If the Vessel is missing or off hire at the time when hire becomes payable, payment of said hire shall be suspended until safety is ascertained or the off hire period ceases.

LIENS

14. The Owner shall have an absolute lien on all cargoes and subfreights for all amounts due under this Charter, and Charterer shall have a lien on the Vessel for all moneys paid in advance and not earned, and for the value of fuel in bunkers.

ADVANCES

15. Any moneys advanced to the Master by the Charterer or its Agents or in payment of disbursements made for Owner's account to be subject to two and one-half per cent Commission and to be deductible from hire money earned or to be earned, and the Charterer to have a lien on the Vessel for same.

DETENTION  
BY  
LEGAL  
ACTION

16. In the event of detention of the Vessel by Authorities at home or abroad in consequence of legal action against the Vessel or Owner whereby the Vessel is rendered unavailable for Charterer's service for a period of 30 days, unless brought about by the act or neglect of the Charterer, the Charterer, by prompt written notice, shall have the election to cancel this Charter or to suspend same until the service can again be resumed, without prejudice to any right of claim for damage which the Charterer may have in the premises. Payment of hire to cease during time the Vessel may be out of Charterer's service by the cause mentioned in this clause, unless the time out is less than 24 hours in which event there is to be no interruption in hire payments.

DRY-  
DOCKING

17. When the ship is drydocked to clean and paint the bottom, the Charterer agrees to send the Vessel to a port where she can be cleared of oil and gas and drydock and paint. In such event the Owner shall always be solely responsible for clearing the Vessel of oil and gas, but the expense and time thereof shall be for Charterer's account if drydocking the Vessel is for the purpose of cleaning and painting bottom only, and for Owner's account if drydocking is for the purpose of effecting any repairs as well as cleaning and painting bottom. Incidental towages, pilotages, fuel, water and all other expenses of drydocking and painting shall be for Owner's account. In case of drydocking pursuant to this clause at a port where the Vessel loads, discharges or bunkers under Charterer's orders, hire shall be suspended from the time Vessel receives free pratique on arrival, if in ballast, or on completion of discharge of cargo, if she arrives loaded, until Vessel is again ready for service. In case Charterer sends the Vessel to a port for drydocking only, hire shall be suspended from the time of Vessel's arrival at the Quayway inbound until her departure from the Quayway outbound, and all port charges incurred and fuel and water consumed between these times are to be for Owner's account, including Agency fee; the Owner having the privilege of appointing its own agents at such port.

OWNER TO  
PROVIDE

18. The Owner shall provide and pay for all provisions, deck and engine room stores, galley and cabin stores and galley and crew fuel, and insurance on the Vessel; wages of the Master, Officers and Crew; consular fees pertaining to the Master, Officers and Crew and all fresh water used by the Vessel for domestic purpose.

19. The Owner guarantees the Vessel is constructed and equipped to carry 28 grades of oil. If for any reason Vessel, upon arrival at loading port, is unable to load the required number of grades, Charterer will do its utmost to provide a suitable cargo consistent with Vessel's capabilities; however, if this is not possible Vessel is to proceed to the nearest repair port in ballast and repair all bulkhead leaks necessary, any time and expense being for Owner's account.



CHARTERER  
TO  
PROVIDE

unless same is  
Charterers'  
property

contract

DUTIES OF  
THE MASTER

BILLS OF  
LADING

USE OF  
VESSEL

EQUIP-  
MENT

carrying

CONDITIONS  
OF TANKS

PREVIOUS  
CARGOES

SAFE  
BERTH

DAMAGE TO  
OR CLAIMS  
ON CARGO

20. The Charterer (except during the period when the Vessel is at her) shall provide and pay for all fuel except for galleys and fridges as provided in Clause 11 (18). The Charterer shall also pay for all port charges, light dues, dock dues, fumans and other Canal dues, pilotage, consular fees, except those pertaining to Master, Officers and Crew, tugs necessary for assisting the Vessel in, about and out of port for the purpose of carrying out this Charter, agencies, commissions, expenses of loading and unloading cargoes, and all other charges whatsoever except those herein stated as payable by the Owner. The Owner shall, however, reimburse the Charterer for any fuel used or any expenses incurred in making a general average sacrifice or expenditure, and for any fuel consumed during drydocking or repair of the Vessel.

21. The Charterer shall accept and pay for all fuel in the Vessel's bunkers, upon commencement of hire, and the Owner shall pay for all oil fuel in the Vessel's bunkers, on the expiry of this Charter at current market prices of the ports where the hire begins and ends respectively, or at current market prices at the nearest recognized port where they may be secured.

22. The Master, although appointed by the Owner, shall be under the orders and direction of the Charterer as regards employment of the Vessel, Agencies, or other arrangements.

23. If the Charterer shall have reason to be dissatisfied with the conduct of the Master, or Officers, the Owner shall, on receiving particulars of the complaint, investigate it, and if necessary make a change in the appointments.

24. The Master shall be furnished by the Charterer, from time to time, with all requisite instructions and sailing directions, and both he and the Engineers shall keep full and correct logs of the voyages, which are to be patent to the Charterer and its Agents, and abstracts of which are to be sent to the Charterer from each port of call.

25. Bills of Lading are to be signed at any rate of freight the Charterer or its Agents direct, without prejudice in this Charter, the Master attending daily, if required, at the offices of the Charterer or its Agents, to do so. However, at Charterer's option, Charterer and/or its Agents may sign Bills of Lading on behalf of the Master. The Charterer hereby agrees to indemnify the Owner against all consequences or liabilities that may arise from the Master, Charterer or its Agents signing Bills of Lading or other Documents inconsistent with this Charter, or from any irregularity in papers supplied by the Charterer or its Agents, or from complying with its or its Agent's orders.

26. The whole reach and burden of the Vessel (but not more than she can reasonably stow and safely carry) shall be at the Charterer's disposal, reserving proper and sufficient space for Vessel's Officers, Crew, Master's cabin, tackle, apparel, furniture, fuel, provisions and stores.

27. The Master will not unreasonably apply a maximum rate per hour or number of grades when loading cargo. Supplier will be able to load the Vessel at the rates they deem necessary having due regard to the safety of the Vessel. If requested by Charterer, the Master will agree to discharge more than one grade simultaneously, provided the Master is satisfied the Vessel's pumps and cargo lines are in a condition to permit such discharge. Should at any time the condition of the Vessel's pumps and cargo lines not permit loading and/or discharge of more than one grade simultaneously, the Owner will agree to carry out necessary repairs as early as possible to enable the Vessel to load and/or discharge more than one grade simultaneously.

28. The Charterer shall have the option of shipping lawful merchandise in cases and/or cans and/or other packages in the Vessel's forehold, 'tween decks and/or other suitable space available, subject, however, to the Master's approval as to kind and character, amount and stowage. All charges for damage, loading, stowing and discharging so incurred shall be paid by the Charterer.

29. The Charterer, subject to the Owner's approval, shall be at liberty to fit any additional pumps and/or gear for loading or discharging cargo it may require beyond what is on board at the commencement of the Charter, and to make the necessary connections with steam or water pipes, such work to be done at its expense and time, and such pumps and/or gear so fitted to be considered its property, and the Charterer shall be at liberty to remove it at its expense and time during or at the expiry of this Charter; the Vessel to be left in her original condition to the Owner's satisfaction. See Clauses 67, 72, 75.

30. Vessel is to be redelivered to the Owner at the expiry of this Charter in a clean or dirty condition at Charterer's option. Vessel to be free of cargo with tank dry certificate.

31. The last two successive cargoes carried, or to be carried, by the Vessel immediately preceding her entering upon this Charter consisted, or will consist of see Clause 70.

32. The cargo or cargoes shall be laden and discharged in any dock, or at any wharf or place that the Charterer or its Agents may direct where the Vessel can always safely lie afloat.

33. The Owner guarantees that the Vessel is constructed and equipped to carry, without admixture, at least 28 qualities or descriptions of oil; but subject to this, neither the Owner nor the Vessel shall be responsible for any admixture if more than one quality of oil is shipped, nor for leakage, contamination or deterioration in quality of the cargo unless the admixture, leakage, contamination or deterioration results from (a) unseaworthiness existing at the time of loading or at the inception of the voyage which was discoverable by the exercise of due diligence, or (b) error or fault of the servants of the Owner in the loading, care or discharge of the cargo.



New Jason Clause as attached incorporated in this Charter Party and in all its Bills of Lading issued under this Charter Party.

INJURIOUS CARGO	34. <del>Perishable cargoes, including acids that are injurious to the vessel, are to be shipped</del>	343
	<del>ped, nor any voyage to be undertaken or goods or cargoes loaded that would involve risk of</del>	344
VOLATILE CARGOES	<del>seizure, capture or penalty by rulers or governments, (it being understood that such Cas-</del>	345
	<del>oline, Ethyl Gasoline, Benzol, Cresote, Molasses, and the various Vegetable Oils customarily</del>	346
VOLATILE CARGOES	<del>carried in tank vessels, are not to be considered as injurious). Charterer undertakes in</del>	347
	<del>case it employs the vessel to carry any other cargo than oil to indemnify the Owner against</del>	348
VOLATILE CARGOES	<del>any damage that may arise to such cargo owing to the vessel having previously loaded oil, or</del>	349
	<del>to any other cargo having loaded other cargo.</del>	350
VOLATILE CARGOES	See Clauses 56, 57, 61.	351
		352
VOLATILE CARGOES	35. <del>Cargo shall not be shipped in a cargo hold or in a hold of one hundred degrees Fahrenheit</del>	353
	<del>(100°F.) in excess of thirteen and one half pounds (13.5 lbs) as determined by the current</del>	354
VOLATILE CARGOES	<del>A.S.T.M. Method (Reid) D-123. Cargo having a flash point under one hundred and fifteen</del>	355
	<del>degrees Fahrenheit (115°F) (closed cup) Method D-92 shall not be loaded from</del>	356
VOLATILE CARGOES	<del>lighters but this clause shall not restrict the Charterer from loading or topping off Crude</del>	357
	<del>Oil from vessels or barges inside or outside the bar at any port or place where bar condi-</del>	358
VOLATILE CARGOES	<del>tions permit.</del>	359
	See Clause 59.	360
VOLATILE CARGOES		361
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VOLATILE CARGOES		421
		422

"STOLT TALKERS" on ship's sides and to paint the hull, deck and

any beyond cost of Owner's normal fleet colors

HOUSE FLAG LAWS

JASON CLAUSE

EXCEP-TIONS



**SALVAGE** 42. All salvage moneys earned by the Vessel shall be divided equally between the Owner and the Charterer after deduction of Master's, Officers' and Crew's share, legal expenses, of Vessel during time lost, value of fuel consumed, repairs, of damage, if any, and any other extraordinary loss or expense sustained as a result of the service, which shall always be a first charge on such money.

**WAR CLAUSES** 43. No contraband of war shall be shipped, but petroleum and/or its products shall not be deemed contraband of war for the purpose of this clause unless shipped or intended to be shipped to or intended for a country involved in war; nor shall the Vessel be required to enter any port that is in a state of blockade, or where hostilities are in progress, or any war zone, or zone deemed a danger zone in consequence of the existence of war, or actual hostilities, without the consent of the Owner, and if such consent be given then the Charterer will pay the cost of insuring the Vessel against all war risks in an amount equal to the value under her ordinary policy but not exceeding U.S. \$4,000,000.

44. In the event of the existence of war, or actual hostilities and the continuance of this Charter, the Charterer shall assume the proved additional cost of wages and insurance properly incurred in connection with the Master, Officers and Crew as a consequence of such war or actual hostilities.

45. Should the Vessel be requisitioned by any Government or Governmental Authority during the period of this Charter, she shall be off hire hereunder during the period of such requisition, and any hire or other compensation paid in respect of such requisition shall be for the Owner's account. The time the Vessel is on any such requisition shall count as part of the period provided in Clause Three (3) of this Charter.

46. Chamber of Shipping War Risks Clauses (Tankers) 1952, as attached, are deemed to be incorporated in this Charter Party.

**LAY-UP** 47. The Charterer shall have the option of laying up the Vessel for all or any portion of the charter period, in which case hire hereunder, less the monthly amount of U.S. \$24,000 shall be paid. In addition, during the period of lay up, Charterer shall not be liable for the expenses stipulated in Clause Six (6) or Clause Twenty (20). Charterer will place Vessel in port of lay up selected by Owner in Europe, Far East or the United States and the redelivery in hire will become effective Fourteen (14) days after arrival at such port and continue until 10 (ten) days prior to date vessel is again placed in service, or until termination of the Charter.

Should the Charterer, having exercised the option granted hereunder, desire the vessel again to be put into service, the Owner will, upon receipt of written notice from the Charterer to such effect, immediately take steps to restore the Vessel to service as promptly as possible. The option granted to the Charterer hereunder may be exercised one or more times during the currency of this Charter or any extension thereof. See Clause 76.

48. Damages for breach of this Charter shall include all provable damages and all costs and attorney fees incurred in any action or proceeding hereunder.

**DEMISE** 49. Nothing herein contained shall be construed as creating a demise of the Vessel to the Charterer.

**CLAUSE PARAMOUNT** 50. All Bills of Lading issued hereunder shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, approved April 16, 1936, which shall be deemed to be incorporated therein, and nothing therein or herein contained shall be deemed a surrender by the Owner of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of any Bill of Lading issued hereunder be repugnant to said Act to any extent, such term shall be void to that extent but no further.

**BOTH TO BLAME CLAUSE** 51. If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, mariner, pilot or the servants of the Owner in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder shall indemnify the Owner against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or Owner. The foregoing provisions shall also apply where the owners, operators or those in charge of any ships or objects other than, or in addition to, the colliding ships or object are at fault in respect of a collision or contact.

**OIL POLLUTION AVOIDANCE** 52. ~~The Owner agrees to participate in a pollution prevention program~~ ~~once work in Charterer's own vessels. Such program prohibits discharge overboard of all~~ ~~oil water, oily ballast or oil in any form of a persistent nature, except under extreme~~ ~~circumstances whereby the safety of the Vessel, cargo or life at sea would be imperiled.~~

Upon notice being given to the Master by radio or other means that Oil Pollution Avoidance controls are required, the Master will contain on board the Vessel all oily residues from consolidated tank washings, dirty ballast etc. in one compartment after separation of all possible water has taken place.

The oil residues will be pumped ashore at the loading or discharging terminal, either as segregated oil, dirty ballast, commingled with cargo or as is possible for Charterer to arrange with each cargo.

If the Charterer requires that demulsifiers shall be used for the separation of oil/water, such demulsifiers shall be supplied by Charterer at its expense.

~~The Owner agrees to instruct the Master to furnish Charterer with a report covering~~

See Clause 55.



ARBITRATION

33. Any and all differences and disputes of whatsoever nature arising out of this Charter shall be put to arbitration in the City of New York pursuant to the laws relating to arbitration there in force, before a board of three persons, consisting of one arbitrator to be appointed by the Owner, one by the Charterer, and one by the two so chosen. The decision of any two of the three on any point or points shall be final. Either party hereto may call for such arbitration by service upon any officer of the other, wherever he may be found, of a written notice specifying the name and address of the arbitrator chosen by the first moving party and a brief description of the disputes or differences which such party desires to put to arbitration. If the other party shall not, by notice served upon an officer of the first moving party within twenty days of the service of such first notice, appoint its arbitrator to arbitrate the dispute or differences specified, then the first moving party shall have the right without further notice to appoint a second arbitrator, who shall be a disinterested person with precisely the same force and effect as if said second arbitrator has been appointed by the other party. In the event that the two arbitrators fail to appoint a third arbitrator within twenty days of the appointment of the second arbitrator, either arbitrator may apply to a Judge of any court of maritime jurisdiction in the city above-mentioned for the appointment of a third arbitrator, and the appointment of such arbitrator by such Judge on such application shall have precisely the same force and effect as if such arbitrator had been appointed by the two arbitrators. Until such time as the arbitrators finally close the hearings either party shall have the right by written notice served on the arbitrators and on an officer of the other party to specify further disputes or differences under this Charter for hearing and determination. Awards made in pursuance to this clause may include costs, including a reasonable allowance for attorney's fees, and judgment may be entered upon any award made hereunder in any Court having jurisdiction in the premises.

for the balance period

COMMISSION

34. 3.75 per cent commission shall be due by the Vessel and her Owner on all hire as paid under this Charter to

3.75 percent for the first 12 months and 2.5

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS CHARTER TO BE EXECUTED IN DUPLICATE THE DAY AND YEAR HEREIN FIRST ABOVE WRITTEN.

WITNESS TO SIGNATURE OF

WITNESS TO SIGNATURE OF

Clauses 35 to 82, both inclusive, as attached shall be deemed incorporated in this Charter Party.



Clause 55: Revised Tovalop Charter-Party Clause: Owners warrant that the Vessel is a Participating Tanker in TOVALOP and will so remain during the currency of this Charter, provided however, that if Owners acquire the right to withdraw from TOVALOP under Clause VIII thereof, nothing herein shall prevent Owners from exercising that right.

When an escape or discharge of oil (the term "oil" for the purposes of this Clause meaning "oil" as defined in TOVALOP) occurs from the Vessel and causes or threatens to cause pollution damage to coastlines. Charterers may, at their option, upon notice to Owners or Master, undertake such measures as are reasonably necessary to prevent or mitigate such damage, unless Owners promptly undertake same. Charterers shall keep Owners advised of the nature and result of any such measures taken by them, and if time permits, the nature of the measures intended to be taken by them. Any of the aforementioned measures taken by Charterers shall be deemed taken on Owners' authority and shall be at Owners' expense except to the extent that:

- (1) such escape or discharge was caused or contributed to by Charterers, or
- (2) Owners are or would have been exempt from liability for such escape or discharge by reason of the exceptions prescribed in Article III(2) of the 1969 International Convention on Civil Liability for Oil Pollution Damage, or
- (3) the cost of such measures together with Owners' own reasonable removal costs exceed One Hundred and Twenty-Five Dollars per Gross Registered Ton of the Vessel or Ten Million Dollars (whichever is less) in case the Vessel was carrying a cargo of oil not owned by an Oil Company Party to CRISTAL (as such ownership is defined in CRISTAL and the Rules promulgated thereunder) or in case the Vessel was in ballast.

PROVIDED ALWAYS that if Owners in their absolute discretion consider said measures should be discontinued, Owners shall so notify Charterers and thereafter Charterers shall have no right to continue said measures under the provisions of this Clause and all further liability to Charterers under this Clause shall thereupon cease.

The above provisions are not in derogation of such other rights as Charterers or Owners may have under this Charter, or may otherwise have or acquire by Law or any International Convention.

Clause 56: The vessel to be employed in Worldwide trading within I.W.L., where no extra insurance is involved. Charterers may with Owners' consent trade the vessel to other areas where extra insurance is involved and Owners' consent not to be unreasonably withheld and Charterer paying the extra insurance involved. The vessel shall not be required to trade to Cuba and Israel, North Korea, Red China and North Vietnam, or any other country prohibited by the vessel's flag or registry or other port or ports or areas which could involve blacklisting by major western Charterers, without Owners' consent, which shall not be unreasonably withheld. Should the political situation change causing no harm to the vessel and/or Owner by vessel calling at one or more of the above-excluded ports or areas

...continued



## Clause 56

Continued:

Charterer has the privilege to trade vessel to such port(s) or area(s) upon obtaining Owners' consent which shall not be unreasonably withheld. The Charterer has the option to trade Great Lakes during Lake season. Extra insurance involved, if any, for Charterers' account. Lake fittings, if required, for Charterers' time and account unless vessel is Lakes fitted when she enters upon this Charter Party. Owners extra cost to crew for jumping vessel in locks to be billed separately.

Clause 57: The vessel to be employed in parcel trading with all liquids and dry cargoes that can safely be handled by tankers and for which the vessel is suitable according to tank segregation, lines and pumps. Owner shall exercise due diligence to maintain tanks' coating to Charterers' standard throughout the period of this Charter. However, if Charterer orders vessel to load cargo which is not included in the coating manufacturer's resistancy list - or approved by coating manufacturer and Owner warrants that said cargo has caused heavy and serious damage to the tank coatings, and Charterer demands repairs/recoating of such damage in excess of what can be carried out by vessel's crew, expenses for repairing damage to coatings to be borne by Charterer.

Notwithstanding the above, the Charterer has the right to load products not tested by coating manufacturer or considered harmful to the coatings, but in such case Charterer to repair and/or recoat the damage provided such repairs or recoating requested by Charterer. Whenever the words "petroleum" and "oil" appear in printed Charter Party, these shall be construed in conjunction with this clause. It is the mutual understanding between Owner and Charterer that parcel trade implies the carriage of up to as many grades as the vessel has tanks, subject only to the availability to the lines and pumps, and that prerequisite condition for this trade is that all bulkheads, lines and valves are tight and strong.



- Clause 58: Charterer shall have the option of subletting or assigning this Charter to any individual or company, but Charterer shall always remain fully responsible for the due fulfillment of the Charter in all its terms and conditions.
- Clause 59: Charterer has the right to load and discharge from/to barges when permitted by Port Authorities according to the usual practice, but only under weather conditions when no risk to the vessel according to Master's reasonable discretion. }
- Clause 60: Charterer may appoint a super-cargo(s) to accompany the vessel, paying U.S.\$3.00 per day for accommodation and fare as provided for a Captain's table. } +
- Clause 61: The Owner and the Charterer have the mutual rights of cancelling the Charter Party in case of major war between any two of the following powers: USA and/or Great Britain and/or France and/or USSR and/or People's Republic of China and/or Norway.

It is understood that "minor wars" or conflicts, like Korea and/or Suez and/or South Vietnam, etc., will be excluded.

No transport to be performed or continue to be performed under this Charter party which by the government or authorities of the country of registration or any other government or authority concerned may be deemed to be forbidden by any resolution of the Security Council of the United Nations as to the shipment of goods originating from or destined to Southern Rhodesia. Any licenses or documents which may be necessary in connection with such restrictions shall be procured by the Charterer.



- Clause 62: Owner agrees not to appoint any protective or sub-agent at ports where vessel will call under this Charter Party unless such agent is approved by the Charterer, except if a conflict of interest exists between charterers and owners, such agent is not to be a competitor of Charterers. It is understood that no agency fees will be charged to owners for normal assistance to the vessels operation.
- Clause 63: Present ordinary war and mine risk insurance, shall be for Owner's account, but war risk insurance for ship's evaluation in excess of present rates and/or extra insurance properly incurred on account of war or actual hostilities, to be for Charterer's account. Extra war insurance premium in force on the date of this Charter Party to be for Charterer's account.
- Clause 64: Any war bonus to Master, Officers and Crew and/or extra war insurance premium in force on the date of this Charter Party to be for Charterer's account. Any increase in said war bonus to Master, Officers and Crew on account of war or actual hostilities and/or vessel's trading area, coming in to force during the currency of this Charter Party to be for Charterer's account.
- Clause 65: The vessel shall not be ordered to nor bound to enter any icebound port or place or any place where light, lightships, markers and buoys on vessel's arrival are or are likely to be withdrawn by reason of ice or where the risk that ordinarily the vessel will not be able on account of ice to enter, reach or leave the place. If on account of ice the Master considers it dangerous to enter or remain at any loading or discharging place for fear of the vessel being frozen in and/or damaged, he shall have the liberty to sail under charterers' instructions to another place or port which is free from ice and at which there are facilities for loading or discharging cargo and there await Charterer's further instruction. Any ice risk premium to be for Charterer's account. The vessel shall not be bound to force ice.
- Clause 66: The fixture including rate, terms and conditions to be kept private and confidential.
- Clause 67: The vessel shall upon delivery to Charterer and throughout the Charter Party period have valid certificates to transit the Panama and Suez Canals and at any time throughout this Charter period, meet all requirements for the carriage of solvents and/or chemicals, etc. from vessel's flag as well as all national and international regulations.

It is understood and agreed that Owner to register vessel in Tonalop and dues for same, to be for Owner's account. It is further agreed that the vessel shall upon commencement of this Charter Party comply with all requirements set forth by Federal Maritime Commission of U.S.A. according to the Water



- Clause 67: (Cont'd) Quality Improvement Act of 1970, and Owner guarantees that the vessel at all times during the currency of this Charter Party will hold valid certificates according to this Act. It is further agreed that the Owner will arrange for other necessary certificates in relation to Oil Pollution which in the future might be required for calling ports of any country within vessel's trading limits.
- Clause 68: With regard to Clauses 40, 46 and 51, reference to these Clauses to be made in all Bills of Lading issued under this Charter Party. New Jason Clause, as attached, is deemed incorporated in this Charter.
- Clause 69: aa) Owner is at all times to keep the vessel's appearance neat and clean and painted including Charterer's House markings. Owner undertakes to maintain the machinery, boilers including exhaust boiler and freshwater evaporator in a thoroughly efficient state throughout the period of this Charter. Owner warrants that the vessel is fitted with coils in all cargo tanks in good working condition.
- bb) Owner to keep the vessel sufficiently crewed to perform all functions normally connected to parcel trade, including cleaning, sweeping (squeegeeing) of tanks without delay to vessel. Charterer to provide and pay for cost of cleaning materials. Owner is to exercise due diligence as to high standard of crew when employing same and at least Master and Chief Officer to understand and speak English properly. Sweeping (squeegeeing) money in ports where the crew is required to do the sweeping to be paid by Charterer to the Owners as follows:
- a) Lumpsum U.S. Dollars 120 per tank of 1,000 CBM or larger
  - b) Lumpsum U.S. Dollars 90 per tank of less than 1,000 CBM
- Above lumpsums to be escalated with 5% per annum compounded.
- Clause 70: Upon delivery of vessel to Charterer all of vessel's coated tanks shall be clean to Charterer's Inspector's satisfaction for chemicals and/or solvents while all uncoated tanks shall be completely free of all rust and scale and clean to Charterer's Inspector's satisfaction for lubricating oils and/or vegetable oils and/or tallow and/or fats and/or waterwhite petroleum products and/or clean petroleum products and/or caustic soda, 47/50% solution.
- Clause 71: Chamber of Shipping War Risk Clauses (Tankers) 1952 1/2/3, as attached, to be incorporated in this Charter Party.



Clause 72: Charterer shall have the right to upgrade the vessel for his time and for his account by fitting of additional pumps and/or other permanent or portable equipment and/or tank coatings and/or lower vessel's coils in tanks where required. Subject Owner's approval (which shall not be unreasonably withheld) prior to redelivery, Charterer shall remove permanent or portable equipment on his time and for his account, the vessel to be left in her original condition to the owners' satisfaction, or at Charterer's option to leave such equipment onboard to become Owner's property free of charge to Owner.

Care and normal maintenance for such equipment, if any, to be effected by vessel's crew for Owner's account, but beyond the crew's capability to be for Charterer's account as well as spare parts.

Clause 73: Owner at all times to supply minimum 8(eight) Butterworth machines and sufficient hoses to operate same.

Clause 74: During the currency of this Charter Party, Owner shall not bring the vessel on the market for sale unless he has obtained Charterer's prior consent, except for the sale where Amership Agency, Inc. will remain the managing agents of the vessel, in which case the vessel will not be placed on the market.

Clause 75: Upon the expiration of this Charter Party Owner immediately to rename vessel ("STOLT" as first part of name to be deleted) unless he has obtained Charterer's prior consent to keep vessel's name unchanged.

Clause 76: During off-hire periods, Charterer has the right to replenishment of fuels and/or cleaning of tanks and/or conversion works as per Clause 29/72 provided above is not interfering with Owner's own works and provided yard/harbour authorities consent. (See also Clauses 29/47/72). This Clause 76 is not valid in case of disputed off hire.

Clause 77: aa) Owner to have similar privileges under Clause 9 for receiving compensation as Charterer does should vessel's performance as concerns speed to be in excess or consumption to be below the description outlined herein.

bb) Charterer shall have the right to deduct claims resulting from poor performance from monthly hire payments after Owner has reviewed statistical data and claim presented by Charterer, Owner agrees to complete this review within thirty (30) days after receipt of claim of Charterer. If Owner fails to reply within thirty (30) days, Charterer to have the right to automatically deduct amount of claim from next hire payment.

16  
5069



Clause 77:  
(Cont'd)

EXHIBIT "A"

With reference to Clauses 8 and 9 the Speed Performance shall be calculated as follows:

Speed Performance Calculation

1. Average speed under mod. weather conditions as per line 148 divided by the speed stipulated in Clause 8 times actual hours under all weather conditions as per line 148 equals Charter Party Hours.
2. Actual hours under moderate weather conditions as per line 148 less Charter Party Hours times hire per hour equals speed difference.

EXAMPLE:

1.	$\frac{13.0 \text{ knots}}{13.75 \text{ knots}}$	$=$	$0.94545 \times 4800 \text{ hours}$	$=$	4538
			Charter Party Hours		
2.	4800 actual hours				
	-4538 Charter Party Hours				
	262 hours x U.S. Dollars 158.95 per hour				

To Calculate Hire Rate Per Hour

$\frac{\text{US Dollars } 5.75 \times 20,180 \times 12 \text{ months}}{365 \text{ days} \times 24 \text{ hours}} = \text{hire per hour US Dollars } 158.95$

Clause 78: With reference to line No. 4 of this Charter Party, Charterer shall propose a "STOLT" - name to the Owner which will be subject to Owner's reasonable approval.

Clause 79: It is understood that Charterer shall have the right during the currency of this Charter Party to arrange for tanks to be recoated when desirable by Charterer and at their expense. Such work to be performed during Owners' normal drydocking and shall not interfere with Owners' work. Any time for such coating work beyond Owners' normal intended drydock and repair time, as specified by yards bid (which must include time) and class requirements to be counted as on-hire time at Owners' proven cost, but maximized to actual Time Charter hire. Charterers will provide and pay for such coating material and labor. Owners will subsequently maintain the coating as per Clauses 57 and 80.

Clause 80: Charterers and Owners will appoint a coating manufacturer's representative to conduct an on-hire survey of coating condition. Such surveys will be repeated annually for coating maintenance. Such survey reports shall be deemed conclusive and binding on both parties. Cost of such surveys to be shared by Owners and Charterers fifty-fifty (50/50).

With reference to Clauses 57 and 79 above, it is agreed that owners will at least maintain the coating in the vessel to the standard it was when Owners took the vessel over from A/S Facto as evidenced by survey



- Clause 80: above. This Clause notwithstanding other rights and/or obligations for both Owners and Charterers under this Charter Party.  
(Cont'd)
- Clause 81: { With reference to line 13 in preamble: It is understood that vessel will occasionally carry part cargoes of high-heat commodities requiring heat up to 180°F provided vessel is capable, with Owner's permission but not unreasonably withheld. This Clause to be seen in conjunction with Clause 57. It is understood that Charterers shall advise Owners of such high-heat requirements.
- Clause 82: Charter Assignment and Consent and Agreement to Charter Assignment as per specimen attached are acceptable by the Charterers.





ADDENDUM NO. 1

TO

**COPY** A-79

M/T "STOLT ARGOBAY" CHARTER PARTY DATED FEBRUARY 6, 1973

Referring to the above captioned Charter Party, it is hereby agreed between SOUNION SHIPPING, INC., Owners, and PARCEL TANKERS INC., Charterers, that:

1. Rate of hire as per line 77 hereof shall be increased by Dollars 0.75 per SDWT per month to Dollars 6.50 per SDWT from June 1, 1974.
2. Charterer shall have the right to review the Charter Hire increase in case the vessel shall not be performing in accordance with the Charter Party for four (4) consecutive months not attributed to casualty to the vessel. It is understood that there will be no arbitrary change in the rates from Charterers' point of view and that Owners shall be advised of any change with minimum thirty (30) days advance notice.
3. It is Charterers' intention to make this increase permanent barring circumstances beyond their control in the Parcel Trade Market, making it impossible for Charterers to continue to trade at the improved rate.
4. No reduction in the increased hire shall be retroactive. In no event shall the rate of hire be reduced to below Dollars 5.75 SDWT.
5. Line 82 shall be deemed amended to provide for payment of hire to ARMCO FINANCIAL CORPORATION A.G. at Franklin National Bank, International Department, Suite 4747, One World Trade Center, New York, New York, 10048, for credit to the Spartan-Sounion Cash Collateral Account (Account No. 202-29-046-6).
6. In consideration of such increase of rate of hire, Amership Agency Inc. guarantees performance of Owners' obligation under the Charter Party, provided that this guarantee shall be of no further force and effect if the rate of hire is reduced.

AMERSHIP AGENCY, INC.

SOUNION SHIPPING, INC.

Witness:

Witness:

FOR PARCEL TANKERS INC.

*D. N. Nielsen*  
STOLT-NIELSEN INC.  
As Brokers Only

Witness:

July 8, 1974  
Greenwich, Connecticut



\*\*\*\*\*  
 In the Matter of Arbitration

- between -

SOUNION SHIPPING, INC.  
 Owner of the STOLT ARGOBAY

- and -

PARCEL TANKERS, INC.  
 Time Charterer  
 Charter Party dated  
 February 6, 1973  
 \*\*\*\*\*

INTERIM  
ARBITRATION  
DECISION

APPEARANCES

Burlingham, Underwood & Lord  
 Attorneys for Owner  
 By: Joseph C. Smith, Esq.  
       of Counsel

Haight, Gardner, Poor & Havens  
 Attorneys for Charterer  
 By: Richard G. Ashworth, Esq.  
       of Counsel

The Owner has requested the Panel to direct the payment of hire withheld by Charterer since it placed the vessel off hire on July 23, 1976. It is the Owner's position that the Charterer does not have the right of off hire for the reasons cited in the Charterer's letter to Captain Chaviraras dated Rotterdam, July 23, 1976.

Charterer contends that it is entitled by Clause 11 of the Charter Party to place the vessel off hire because the ship is not in proper condition to carry cargoes in the parcel trade for which it was chartered and that Charterer is justified by the specific language of Clause 11 to refuse to pay hire until the vessel is again in an efficient state.



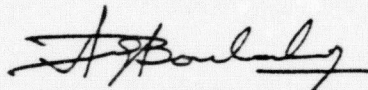
A-81

- 2 -

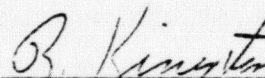
By unanimous decision the Panel finds that in the absence of specific off hire claims or incidents in excess of 12 hours or other detailed claims of itemized damages suffered by Charterer in consequence of causes mentioned in Clause 11, or elsewhere in the Charter Party, the Charterer is not justified in withholding hire as due and required under Clause 5.

The Panel directs that full charter hire be paid to the Owner to date in accordance with the terms of the Charter.

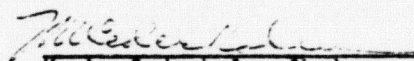
This decision in no way prejudices any claim either party may present to <sup>the</sup> Panel for final consideration and award in these proceedings.



A. C. Boulalas, Arbitrator



R. Kingston, Arbitrator



H. L. Cederholm, Chairman

New York, N. Y.  
September 16, 1976



EX. 'A'  
A-82

4u1-v

Amership Agency, Inc.  
One State Street Plaza  
New York, New York 10004

June 21, 1976

Gentlemen:

M/T "STOLT ARGOSAY" - UPGRADING

On June 10th of this year the Charterers had the opportunity to inspect the M/T "STOLT ARGOSAY" in Toronto. During this inspection various deficiencies were noted aboard the vessel. As a result of her condition the vessel was found to be in serious violation of clauses 3, 26, 33, 69, 70, 73 and 80, as well as the preamble.

In view of the vessel's condition the Charterers are forced to advise the Owners that they will reinspect the vessel upon the completion of discharge of her present voyage's cargoes. This should occur in Rotterdam on or about July 15th. If at that time, it is discovered that any of the noted items are still outstanding, the Charterers will be forced to place the vessel off-hire until she is in compliance with the vessel's Charter Party. It must also be noted that the repair of the below mentioned items alone does not constitute complete compliance with the Charter Party. Should additional deficiencies be noted at the Rotterdam inspection, they must also be rectified. Effectively the Charterers reserve all their rights under the Charter Party.

It is regrettable that this action must be taken. However, in view of the vessel's condition and recent performance, cargo interests are refusing to ship their cargoes aboard her. Thus it is not possible to trade the vessel in accordance with the Charter Party. This cannot be tolerated.

The noted deficiencies and or comments are as follows:

Deck and ship sides

- Port side needed painting.

Cargo pumps

Cargo pump No. 5: The piston guide was cracked.

Cargo pump No. 7: The pump was run against closed valve on the manifold with 4-5 kg/cm<sup>2</sup> pressure. At that pressure the strokes per minute were 13. The variation in pressure was 1 kg/cm<sup>2</sup>. When the steam was shut down, the pressure dropped to 0. The pump was run with only 5 kg/cm<sup>2</sup> because the vessel's personnel were afraid higher pressure would burst the cargo lines. It needs overhauling.

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EXHIBIT A



Amership Agency, Inc.  
One State Street Plaza  
New York, New York 10004

06/21/76

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According to vessel's personnel the rest of the pumps were more or less in the same condition as No. 7. Heavy steam leaks on pump steam rod packings.

Cargo pump No. 9: When the manifold valve was closed, the pump was run with 8-9 strokes per minute with a variation of pressure between 4.5-6 kg/cm<sup>2</sup>. Minor leaks on steam rod packings. The pressure fell to 0 in 40 seconds. The piston guide welded on this pump also. It needs overhauling.

The piston guide is crack on pump No. 6.

Cargo pump No. 1: Discharged its cargo at only 55 TPI. It should be checked.

There are very few spares onboard for the pumps and during the stay onboard the engineers were welding some cast iron parts which probably will not last long.

#### Cargo Lines

Line No. 7 had 2 minor rust holes which need replacing.  
Line No. 3 has been disconnected and cannot be used to cargo manifold.  
Line No. 5 has 4 clamped holes already and is in a very bad condition.  
The aft discharge line is completely rusted away.  
Line No. 4 has 2 holes repaired with clamps which must be replaced.  
The day before the inspection most of the cargo lines were painted, however, most of these cargo lines were rusted and a complete pressure test of all lines should be done.

#### Pipes on deck - Steam/return lines

There were two big cracks on midship winch steam line.

A flange outside midship pumproom was cracked.

#### Hydraulic Lines

The line was partly removed, however, what was left of the old line was in very bad condition. It is impossible to use the line before a big leak just aft of the midship is repaired.

#### Air Lines

The line was in a bad condition and had a lot of clamps and leaks.

#### Heating Coils

Except for a couple of tanks with cargo, most of the heating coils on deck were tested. Generally the condition was bad and a complete checkup is necessary.



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One State Street Plaza  
New York, New York 10004

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The heating coils in the tanks were not tested. Following are the noted deficiencies:

Tank No. 1p.	Crack in the steam line. The testing valve was leaking.
Tank No. 1c.	Both test valves heavily leaking.
Tank No. 1s.	Not tested.
Tank No. 2c.	Both testing valves leaking.
Tank No. 2s.	Both testing valves leaking.
Tank No. 3c.	One return line completely broken off. One steam line cracked. One testing valve packing leaking badly.
Tank No. 3s.	Both testing valves leaking.
Tank No. 4p.	Steam side disconnected.
Tank No. 4c.	Cargo
Tank No. 4s.	Disconnected, but a visible leak on steam line.
Tank No. 5p.	Big crack in return line. Crack in steam line.
Tank No. 5c.	Crack in return line.
Tank No. 5s.	Crack in return line. Testing valve leaking.
Tank No. 6p.	Small crack in return line.
Tank No. 6c.	Small crack in return line. Both valves leaking.
Tank No. 6s.	Both testing valves leaking.
Tank No. 7p.	Testing valve packing leaking.
Tank No. 7c.	Both valves have minor leaks.
Tank No. 7s.	Testing valve leaking.
Tank No. 8p.	Testing valve leaking.
Tank No. 8c.	Both valves leaking.
Tank No. 8s.	Big crack in return line.
Tank No. 9c.	One testing valve leaking.
Tank No. 9s.	Crack in return line.
Tank No. 11p.	Very big leak in return line.
Tank No. 11c.	Very big leak in return line.
Tank No. 11s.	Both testing valves leaking.
Tank No. 12p.	Crack in return line.
Tank No. 12s.	Testing valve leaking. Leak on deck inlet line.

Part of the manifold on the catwalk was leaking heavily, both from the packing and from cracks. The heating coil main steam line had a big crack on a main valve on the aft deck in front of pumproom.

#### Steam smothering system

One line to fore castle is completely broken and has been blinded off. The valves are very often leaking and during steaming of some tanks, steam is leaking into other tanks. Line for 12s is cracked.

#### Butterworthline

Quite a few of the valves were leaking and need overhaul. One valve was cracked. (forward pump room blowing/venting lower level regulator casing)

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#### Engine Room

##### Butterworth Pump:

The pump was in an unusually bad condition and a repair is absolutely necessary. The whole casing was cased, but still heavily leaking. With 3 Butterworth machines working the pressure was only 2.5-4 kg/cm<sup>2</sup>.

The EJ pipes in the engine room were in a very rusty condition.

##### Butterworth heater:

With 3 EJ machines working, the temperature was 65-70 degrees C.

Butterworth machines.

Only 3 in operating condition.

##### Working air compressor:

The size of the electric motor was 44KW and the capacity of the compressor is 260 CFM at 100 lbs. of pressure. However, the efficiency was obviously very bad. During testing the pressure never reached 7 kg/cm<sup>2</sup> and it took 7 minutes to reach 6.5 kg/cm<sup>2</sup> when filling up a 0.4m<sup>3</sup> air bottle. A complete overhaul is necessary.

(The fire pump was disconnected)

(Forward pumproom flooring/grating lower level requires repair)

#### Safety Equipment

##### P.V. valves and lines

Many of the valves were "frozen" and need oil.

Line 3s, 6s, 11s and 12s had holes and need repair. Also the main P.V. line just forward of the midship has holes. (10p ventline hole)

##### Fire Extinguisher:

All portable fire extinguishers were tested in 5/27/75 in Singapore. The big CO<sub>2</sub> fire extinguishers were marked tested in May, 1972. 4p tank ullage opening inoperable due to wasteage.

##### Fire Stations:

Fire Station No. 2	The hose was not connected to the couplings.
Fire Station No. 3	No hose
Fire Station No. 4	Completely empty
Fire Station No. 5	No hose or nozzle
Fire Station No. 9	Completely empty
Fire Station No. 10	Hose not connected to couplings
Fire Station No. 11	Not possible to open door
Fire Station No. 12	Completely empty
	Not checked

On the aft deck two of the fire line valves had broken spindles. On the forward deck one spindle was broken.

##### Life buoys:

No lights on the buoys were working. On the bridge wings the star overboard life-buoy system was replaced by a normal lifebuoy with lights, which was not working.



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One State Street Plaza  
New York, New York 10004

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#### Pumproom fans

Forward pumproom: Port side fan had hardly any suction thus being unable to exhaust gas or supply fresh air sufficiently.

Aft pumproom: Port side fan did not work at all.

Both the cover over the fans and also the flame screens were partly in a very bad condition and need repair/renewal.

#### Fire emergency pump:

The electric cabling in the forward pumproom was in a very bad stage and could fall down any time.

#### TANK COATINGS:

1c. COLTURIET: At tank bottom coating has failed approximately 35% with some deep pittings. Bulkheads' failure rate 25%. Upperhead 20% coating failure.

2c. COLTURIET: Bad condition. Tank bottom coating has failed approximately 30%. Bulkheads' failure rate 25 to 35%. Upperhead coating failure 10%.

3c. ZINC 11: In very bad condition. Tank bottom coating completely failed. Bulkheads almost no coating left, only upper some coating left here and there. Tank has to be considered as a mild steel with no loose rust or scale.

4c. ZINC 11: Tank bottom coating has failed approximately 20% with some pittings and loose scale under the frames. Bulkhead coating failure rate 5 to 15%. Upperhead coating has failed approximately 10%.

5c. SOYAPON: In bad condition. Tank bottom coating has failed completely with some deep pittings. Bulkheads' coating failure 45 to 50% with a lot of loose coating scales and many blisters. In some areas coating still peeling off. Upperhead coating failure rate 20%.

6c. SOYAPON: In bad condition. Tank bottom coating has failed 65% with some heavy undercutting. Bulkheads' failure rate 30 to 95%. Upperhead coating failure rate 10%.

7c. COLTURIET: Bad condition. Tank bottom coating failed 30% with some pittings and undercutting. Bulkheads' failure rate 40 to 55%. Upperhead coating failed 20%.

7s.

7s. SOYAPON: Ballasted. To be inspected.

8c. COLTURIET: At tank bottom coating has failed 25%. Bulkheads' coating failure rate is 15 to 20%. Upperhead 5%.

8p. COLTURIET: Bad condition. Tank bottom coating has been failed 60% with some undercutting. Bulkheads' failure rate 25 to 95%. Upperhead 15%.

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Amership Agency, Inc.  
One State Street Plaza  
New York, New York 10004

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Tank Coatings Continued

8s. COLTURIET: In bad condition. Tank bottom coating has failed 80% with some rust scale and deep pittings. Bulkheads' coating failure rate 30 to 40%. Upperhead - 15%.

9s. COLTURIET: In bad condition. At tank bottom coating has failed 45%. Bulkheads' coating failure rate 25 to 55%, with some loose scale. Upperhead coating failure rate 40%.

Miscellaneous:

There is a bulkhead leak between 1c and 1s near the tank bottom.

At the supply manifold 1c and 1w are leaking.

We await your notification as to the steps being taken to upgrade the vessel.

Very truly yours,

STOLT-NIELSEN INC.

Stephen F. Vlahovich

SFY/tas

cc: SNI - Owen McLesley  
Ragnar Sissoner  
Hans J. Krackow  
JSM A/S - Kjell Nyborg



# Stolt-Nielsen Ship Agency E.V.

Ship Agents

Willemskade 16  
Rotterdam

Telephone: 112847  
Cable: Stolton Rotterdam  
Telex: 23375

[S] A-88

Captain Chaviaras  
Master M/T " STOLT ARGOBAY "  
ROTTERDAM

Rotterdam, July 23, 1976

Dear Captain Chaviaras,

Following letter received from our office in New York:

-Quote-

Attention: Captain Chaviaras  
Master m.t. " STOLT ARGOBAY "

Despite repeated requests and Charterers directing you to permit and commence verification of vessel warranties you have refused. Charterers are therefore compelled to advise you that the governing Charter Party has been violated on the following points:

- a) Owners/vessel master refuse to demonstrate that the vessel can satisfy the warranties in the governing Charter Party, specifically with respect to pumping in clause 8 as below stipulated

-quote-

The Owner further guarantees that the vessel is equipped with 10 main cargo pumps and 2 stripping pumps giving a guaranteed discharge rate of 2000 tons water per hour against a back pressure of 100 pounds per square inch at ship's rail

-unquote-

- b) Charterers representatives and an independent surveyor retained by Charterer have been denied access to the full reach and burthen of the vessel as per clause 26 of Charter Party by reason of refusing inspection to verify Charter Party warranties

EXHIBIT 2

EXHIBIT B



Captain Chaviaras

7/23/76

Page 2

- c) As per clause 22 Charterers gave master a written directive on July 22, 1976, which he refused to comply with constituting a breach of orders ( re clause 11 )

Charterers have no other recourse with respect to Owners violations of Charter Party but to invoke the protection afforded them under clause 11 and consider the vessel off-hire until such time as the above violations are rectified by Owners. Consequently the vessel is hereby regarded by Charterers as off-hire as from completion of shifting at 1430 hrs. today, July 23rd, 1976.

We solicit Owners/vessel's master's prompt action to correct such Charter Party violations to mitigate their effect on the commercial venture this Charter Party represents. We are not taking this action to harass Owners but are compelled to take this action because of being put on notice by certain of our sub-charterers to refuse to utilize this vessel in the future for shipment. This situation is serious and its implications could produce a commercial frustration of the Charter Party with South Union Shipping for the m.t. STOLT ARGOBAY through an inability to effectively utilize the vessel in the parcel trade.

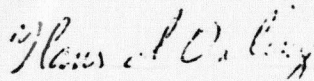
STOLT-NIELSEN INC.

As Agents Only For Parcel Tankers Inc.

-Unquote-

We ask you kindly to sign duplicate copy of this letter as receipt.

Kindest regards,  
STOLT-NIELSEN SHIP AGENCY B.V.



H. Ordning

HAO/nja  
503/76



EX 6  
A-90

PART ONE OF TWO

SARGOSAY Z RNP 111 7/26 Z FOLLOWING TLX PASSED ON TRY TO  
OWNERS AND HOPE YOU FIND SAME IN ORDER  
QUOTE  
STOLT ARGOSAY - C/P FEBRUARY 6, 1973

CHARTERERS CONFIRM RECEIPT OF YOUR TELEX OF 7/26/76 AND WILL ADVISE  
YOU AS FOLLOWS:

1. AS YOU WERE ADVISED ON 7/23 THE VESSEL WAS PLACED OFFHIRE WITH  
IMMEDIATE EFFECT AS FROM 15.30 HOURS ROTTERDAM TIME UP TO SUCH TIME  
THE VESSEL HAS BEEN COMPLETELY UPGRADED TO A STANDARD PROVIDED  
FOR IN THE CHARTER PARTY. AS THE VESSEL WAS AND STILL IS OFFHIRE,  
THE HIRE DUE DURING 7/23 NEW YORK TIME WAS NOT PAID AND THIS IS  
IN ACCORDANCE WITH CHARTER PARTY CLAUSE 13, LAST SENTENCE,  
WHERE IT IS PROVIDED THAT ".....PAYMENT OF HIRE SHALL BE  
SUSPENDED UNTIL ..... OFFHIRE PERIOD CEASES". DUE TO THIS CLAUSE  
HIRE WILL NOT BE PAID UNTIL SUCH TIME THAT THE VESSEL IS  
COMPLETELY UPGRADED TO A STANDARD AS PROVIDED FOR IN THE CHARTER  
PARTY AND SACK ON HIRE.

2. THE VESSEL HAS THROUGHOUT THE CHARTER PERIOD GRADUALLY  
DETERIORATED - AND ESPECIALLY THROUGHOUT THE LAST YEAR - TO A  
STANDARD FAR BELOW THE ONE PROVIDED FOR IN THE CHARTER PARTY  
AND WHICH YOU ARE IN A SUBSTANTIAL DEFAULT OF.  
BEFORE CHARTERERS' LETTER OF JUNE  
21, 1976 CHARTERERS HAVE VERBALLY MADE LOTS OF  
COMPLAINTS ABOUT VESSEL'S CONDITION AND HER PERFORMANCE.  
CHARTERERS HAVE ALSO IN PAST YEAR (6/30/75 TO 7/1/76)  
HAD SUPERCARGO ONBOARD FOR 133 OF 160 DAYS  
CARGO BEING WORKED BECAUSE OF INCREASINGLY BAD  
REPUTATION/PERFORMANCE, BUT IT SEEMS TO HAVE BEEN RATHER IN VAIN.

AS POINTED OUT TO YOU EARLIER, YOU ARE IN SERIOUS BREACH AND  
VIOLATION OF SEVERAL CLAUSES OF THE CHARTER PARTY AND IT IS  
CORRECT TO TALK ABOUT A COMPLETE COMMERCIAL FRUSTRATION.  
YOUR DEFAULTS ALSO MAKE SERIOUS HARM TO OUR TRADE - THERE ARE  
MANY COMPLAINTS FROM OUR CUSTOMERS ABOUT HER POOR PERFORMANCE  
AND WHICH IS TO BE BLAMED ON THE OWNER.

3. AMONG THE MANY COMPLAINTS CHARTERERS MAY MENTION A LETTER FROM  
DUPONT OF CANADA LTD. OF JUNE 17, 1976 WHERE THEY FIRST OF ALL  
EXPRESS HOW DISPLEASED THEY ARE WITH THE PERFORMANCE OF STOLT  
ARGOSAY ON THE DISCHARGE AT VALLEY FIELD JUNE 8, 1976.  
THE LETTER GOES ON STATING "THIS SHIP CAME IN WITH A VERY DIRTY  
DISCHARGE LINE AND 2,000 US GALLONS OF CYCLO HEXANE  
HAD TO BE WASTED FLUSHING THE SHIP'S LINE UNTIL WE GOT CLEAN  
MATERIAL. FURTHERMORE, THE SHIP'S PUMPS BROKE DOWN TWICE DURING  
DISCHARGE WHICH CREATED 7.5 HOURS DELAY. WE WOULD NOT WANT TO  
USE THIS SHIP AGAIN AND WOULD RECOMMEND THAT IT BE TAKEN OUT OF  
YOUR SERVICE TO CANADA".

THERE ARE ALSO SEVERAL OTHER COMPLAINTS OF WHICH CHARTERERS  
MAY MENTION:

ESSELEN - DUE TO PROBLEMS ON STYRENE MONOMER, ESSELEN IS NO  
LONGER WILLING TO SHIP IN STOLT ARGOSAY. HIS SUPPLIER, POLYSAR,  
ALSO STATED HE DOES NOT WANT TO SEE THIS VESSEL AGAIN.

BASF - DUE TO CONTAMINATION OF 700 TONS OUT OF 2000 TONS  
2-ETHYL HEXANOL, BASF LAUGHED AND THOUGHT WE WERE JOKING WHEN WE  
PROPOSED STOLT ARGOSAY FOR 2000 TONS 2-ETHYL HEXANOL FOR THE NEXT  
POSITION.

PETROCHEM - ON 1525 TONS MTM - TOLD US THEY DID NOT CONSIDER  
STOLT ARGOSAY A SAFE VESSEL AND FIXED DELCHIN

THE ABOVE ARE RESULTS OF THE BAD PERFORMANCE AND FOR WHICH YOU  
ARE TO BE BLAMED. THE RESULT IS ALSO THAT CHARTERERS HAVE HAD TO  
ELIMINATE STOLT ARGOSAY FROM THE GREAT LAKE TRADE. AND IF WE ARE  
GOING TO TRADE THIS VESSEL IN THE FUTURE THE PERFORMANCE HAS TO  
BE A ONE BECAUSE THIS VESSEL HAS A REPUTATION WHICH COMPLETELY  
FRUSTRATES THE CHARTER PARTY AND SERIOUSLY HARM OUR TRADE.  
YOU CERTAINLY UNDERSTAND THAT WE CANNOT LIVE WITH THIS.

END PART ONE OF TWO

EXHIBIT C



A-91

OJ 7/27/76 37 (SFV) (RS) (PD) (M HJK JL) (TL RKK) (HAG)  
KN(AWS)/TGP

PART TWO OF TWO

4. BOTH OWNERS AND CHARTERER'S AND I CLUSS REPRESENTATIVES WERE PRESENT IN ROTTERDAM AND THEY BOTH STATED THAT THEY WERE SHOCKED BY THE VESSEL'S BAD PERFORMANCE AND THE GENERAL CONDITION ONBOARD. THERE IS NO DOUBT WHATSOEVER THAT THE VESSEL IS CORRECTLY PUT OFFHIRE AND AS A MATTER OF FACT THE STATE NOW BEING SUCH THAT CHARTERERS EVEN WILL BE IN THEIR RIGHT TO CANCEL THE CHARTER PARTY DUE TO POOR PERFORMANCE, THE LACK OF MAINTENANCE OF THE VESSEL AND THE EXTREMELY BAD GENERAL CONDITION ONBOARD THIS VESSEL. CHARTERERS HEREBY RESERVE THEIR RIGHT IN THIS RESPECT AND THE DEMAND FOR UPGRADING MUST NOT BE CONSIDERED AS A WAIVER OF THE RIGHT TO HAVE THE CHARTER PARTY TERMINATED NOR MUST IT BE CONSIDERED AS A WAIVER TO CLAIM YOU FOR JUST COMPENSATION FOR ALL THE LOSSES AND THE HARM WHICH HAS BEEN DONE TO OUR TRADE DUE TO THE POOR AND DISASTROUS PERFORMANCE OF STOLT ARGOSY.
5. THE VESSEL HAS TO BE IMMEDIATELY BROUGHT UP TO THE STANDARD AS PROVIDED FOR IN THE CHARTER PARTY IN ANY AND ALL RESPECTS. THIS MEANS THAT THE COATING OF THE TANKS HAS TO BE UPGRADED TO THE STANDARD AS PROVIDED FOR IN THE CHARTER PARTY AND THE LINES, PUMPS, PIPING, VALVES, COILS AND B/W SYSTEM, ETC., ETC. HAVE TO BE COMPLETELY REPAIRED - WE REFER ESPECIALLY TO ALL THE ITEMS LISTED IN OUR LETTER OF JUNE 21, 1976. WE HAVE BEEN ADVISED BY OUR REPRESENTATIVE IN ROTTERDAM THAT ONLY A VERY SMALL PART OF THE TOTAL DEFICIENCIES HAVE BEEN RECTIFIED AND ONE THING IS DEFINITELY SURE, NAMELY THAT THIS VESSEL WILL NOT BE ACCEPTED ON HIRE UNTIL ANY AND ALL DEFICIENCIES LISTED IN OUR LETTER OF JUNE 21, 1976 AND ANY OTHER DEFICIENCIES WHICH MAY BE DISCOVERED DURING TESTS HAVE BEEN RECTIFIED. WE ASK YOU TO COOPERATE WITH OUR REPRESENTATIVE IN ROTTERDAM, MR. HANS ORDING, WHO IS AUTHORIZED TO ACCEPT THE REPAIRS AS THE WORK GOES ON. HANS ORDING IS RECEIVING COPY OF THIS TELEX.
6. IN RESPECT OF THE TELEX RECEIVED ON JULY 23 FROM LOFF VAN DER FELDZ + SALOMONSEN WHO STATE THEY ACT ON YOUR BEHALF, WE HAVE TO ADVISE YOU THAT WE DO NOT TAKE ANY RESPONSIBILITY WHATEVER FOR POSSIBLE DAMAGE ARISING OUT OF TESTING THE PUMPS ETC., ETC. IT IS YOUR RESPONSIBILITY TO PROVE TO THE CHARTERERS THAT THE PUMPS AND LINES ARE IN ORDER BECAUSE THE FACT NOW BEING THAT THE SAME WERE PROVED NOT TO BE IN ORDER AND ACCORDING TO C/P DURING THE DISCHARGE OF THE CARGO RECENTLY IN ROTTERDAM.

AS STATED ABOVE, THE DEMAND FOR COMPLETE UPGRADING OF THE VESSEL IS DUE TO THE FACT THAT WE CANNOT LIVE ANY LONGER WITH THE VESSEL, AND THAT YOU HAVE LET THE VESSEL BE DETERIORATED TO THE STATE THAT YOU ARE IN SUBSTANTIAL DEFAULT OF C/P AND IN SERIOUS BREACH OF SEVERAL CLAUSES OF THE C/P AND THAT THE PERFORMANCE IS FAR BELOW THE ONE PROVIDED FOR IN THE C/P AND SERIOUSLY HARM OUR TRADE. OWNERS' STATEMENTS IN THEIR TELEX OF 7/25/76 CC AND DD ARE THEREFORE NOT TRUE AND ARE PUTTING THE FACTS UPSIDE DOWN. CHARTERERS REQUEST OWNERS' CONFIRMATION THAT ANY AND ALL DEFICIENCIES WILL BE IMMEDIATELY RECTIFIED. CHARTERERS RESERVE THEIR RIGHT TO HAVE THE C/P TERMINATED AND IN ANY CIRCUMSTANCES TO CLAIM COMPENSATION FOR ALL THE HARM AND DAMAGES SUFFERED IN THE PAST DUE TO YOUR MANY BREACHES OF THE C/P AND POOR PERFORMANCE.

REGARDS  
STOLTEN

UNQUOTE



1 Panel, it was that because of the way in which  
2 the off-hire was stated, that that reason was not  
3 a sufficient reason.  
4

5 I do not know that the Panel has ruled on  
6 that, but I had indicated in oral argument yester-  
7 day and in the brief we submitted that we do  
8 assert and plan to prove that the vessel is  
9 presently broken down, and I would ask for leave  
10 to put in evidence on those questions which is  
11 what our witnesses are here to do.

12 It may be that the Panel would conclude that  
13 we have not proved that the vessel is in condition  
14 under Clause 11, but we intend to try to prove  
15 that. We have not yet put in the evidence because  
16 we have not yet put on our case.

17 THE CHAIRMAN: I do not know as you are adding  
18 anything to what we considered, Mr. Ashworth.

19 You gave the ship a month's notice in advance  
20 that there were some deteriorating aspects of the  
21 vessel. She did not stop operating then. She  
22 went on operating for another month, and then we  
23 do not even know she stopped operating then when  
24 you decided you would put her off-hire primarily  
25 because the ship would not agree to an inspection,

EXHIBIT D

RALPH FINK & ASSOCIATES

140 NASSAU STREET, NEW YORK, N. Y. 10038. RECTOR 2-5566



1  
2 We recognize that the other elements are all  
3 present. It is still not shown by the Charterers  
4 that they have suffered damages in that the ship  
5 could not perform her functions any more.

6 Maybe she could only perform them in an  
7 adequate manner but to what degree you have not  
8 spelled it out.

9 MR. ASHWORTH: That is precisely what we will  
10 offer evidence on.

11 THE CHAIRMAN: We are prepared to hear the  
12 evidence, and as that decision says, it is without  
13 prejudice to any further claims you shall submit  
14 to the Panel and which may very well effect the  
15 same off-hire period we are talking about here.

16 But for the moment it would appear that not  
17 sufficient cause has been shown to justify the  
18 withholding of hire.

19 MR. ASHWORTH: This is the problem I have.  
20 Not sufficient cause has been shown because we have  
21 not had a chance to show it yet. In other words,  
22 that is exactly what we intend to show.

23 THE CHAIRMAN: What port, for whose cargo,  
24 under what pumping conditions did the Charterers  
25 come and find the ship deficient and in what



1 detailed ways was this in violation of the  
2 charter.

3 MR. ASHWORTH: Mr. deVries, as soon as he  
4 testifies, will tell the Panel when he saw the  
5 ship in Rotterdam she did not have coated tanks  
6 any more. She was no longer in the condition that  
7 the charter warranted her to be in.  
8

9 In other words, we have evidence on these  
10 precise points. We have not presented it yet.

11 And in the letter of June 21st we indicated  
12 that these were the conditions which were consider-  
13 ed breakdowns and incapacitations of the ship.

14 It is true we have not proved it yet because  
15 we have not put the evidence in.

16 THE CHAIRMAN: We think there should be an  
17 element of proof before the off-hire is put into  
18 effect.

19 MR. ASHWORTH: As Clause 11 reads, that payment  
20 of hire shall cease until the ship is again in  
21 efficient state.

22 THE CHAIRMAN: Shall cease for specific  
23 reasons, and I do not know that you have been  
24 specific enough.

25 You have been generally critical of the ship



1 and perhaps you will prove every criticism you  
2 have raised, but as of the moment last night to  
3 see whether there was sufficient cause to justify  
4 that ship being put off-hire at the time, there  
5 did not appear to be.

6  
7 Has there been an accumulation of off-hire  
8 claims, of claims by consignees about the ship?  
9 Where are they? Why were they not made known to  
10 us?

11 MR. ASHWORTH: There had been claims. I men-  
12 tioned in the presentation to begin with that  
13 there are claims which we are not presenting to  
14 the Panel at this time for indemnity on account  
15 of the excessive cargo damage. It is over a  
16 million dollars that has been claimed on the last  
17 voyage by cargo interests.

18 THE CHAIRMAN: I think that perhaps if you  
19 had brought it up yesterday before last night  
20 it would have had a bearing on it, but as of the  
21 evidence we considered to arrive at that interim  
22 decision, why that is what we had to go on.

23 MR. ASHWORTH: I would ask, since I now see  
24 what has troubled the Panel, I would ask leave  
25 to specify to the Panel what these objections are.



1  
2 The letter of June 21st states what conditions  
3 were found on inspection. We have evidence from  
4 Mr. deVries who will testify what he found.

5 THE CHAIRMAN: Whose inspection was that?

6 MR. ASHWORTH: Two people from Stolt-Nielsen,  
7 and that is why I want to call on Mr. deVries to  
8 see what he found.

9 THE CHAIRMAN: Is that a self-serving  
10 inspection? I am just telling you some of the  
11 things we were thinking about last night.

12 MR. ASHWORTH: The thing that causes difficul-  
13 ty with the decision to me, Mr. Cederholm, is this:  
14 We make allegations of what we hoped to prove.  
15 We have not proved them yet because we have not  
16 had a chance to put in evidence. But there is a  
17 dispute here between these parties as to whether  
18 the ship was in a bad condition and was incapacita-  
19 ted.

20 As I read the decision of the Panel, "In the  
21 absence of off-hire claims or incidents --" the  
22 ship has been unable to perform from the time of  
23 completion of discharge of cargo. We expect to  
24 prove that.

25 We have not yet because we have only made our



1  
2 allegations.

3 I would ask that the Panel reconsider on that  
4 basis because they apparently have not understood  
5 what our position was.

6 THE CHAIRMAN: I think we understood, Mr.  
7 Ashworth. I think maybe you did not understand  
8 exactly what decision the Panel was asked to make  
9 and which we said we consider at the time yester-  
10 day, which was, should in the interim while all  
11 of these matters are decided should hire be  
12 reinstated; is there sufficient cause for Charterer  
13 to withhold it.

14 I think that is the essence of what we were  
15 thinking about when we decided there was not  
16 sufficient cause.

17 MR. ASHWORTH: Is the Panel saying that if  
18 we establish the allegations that we have set forth  
19 in our complaints, that that is not sufficient  
20 cause for off-hire?

21 THE CHAIRMAN: I think they can conceivably  
22 be sufficient cause to apply against the same  
23 hire payment that you are now asked to make. I  
24 think that is the way it certainly can operate.

25 We say to pay hire in accordance with the



1 charter terms. We are still talking about whether  
2 or not it was a justifiable action on the part of  
3 the Charterers on July 23rd.

4 MR. ASHWORTH: I am not sure, it is either my  
5 position has not been made clear to the Panel  
6 or do I understand the Panel -- as I understood  
7 Mr. Smith yesterday he was asking the Panel to  
8 rule that the refusal of the Master to permit an  
9 inspection was not a sufficient ground to put the  
10 ship off-hire, inspection and tests.

11 And my position yesterday was that is not  
12 the only ground on which we assert the ship is  
13 off-hire. We say that her condition is such that  
14 she is not a working vessel for the parcel trade.

15 Now, if the Panel is saying, well, you have  
16 not proved it yet, I agree I have not proved it  
17 yet and cannot until we put in our evidence.

18 But it seems to me if we are right that the  
19 ship is not in efficient condition under Clause  
20 11, payment of hire shall cease, and that if we  
21 were right, the Arbitrators find that at the  
22 end of the hearings that we were correct that she  
23 was not in an efficient state, it seems to me we  
24 were entitled to withhold hire and should not now

1 be required to pay hire.

2 THE CHAIRMAN: I think we stated what we  
3 thought the question put to us was by both parties  
4 on Page 1.

5 Now, are we incorrect?

6 MR. ASHWORTH: As to Paragraph Two, that  
7 correctly states our position.

8 THE CHAIRMAN: Does that correctly state your  
9 position, Mr. Smith?

0 MR. SMITH: Yes.

1 THE CHAIRMAN: So I do not know that the  
2 Panel can be accused of misunderstanding.

3 I think this is the immediate problem we  
4 had yesterday and we have offered a solution.

5 MR. ASHWORTH: I just want to ask, as the  
6 paragraph reads, "Charterer contends it is entitled  
7 by Clause 11 to place the vessel off-hire because  
8 the ship is not in proper condition to carry car-  
9 goes in the parcel trade."

20 Now, I am not not sure whether the Panel is  
21 saying we have not yet proved that which is true  
22 because we have not yet put in evidence or whether  
23 the Panel is saying even if she is not in proper  
24 condition to carry cargoes in the parcel trade  
25



1 we are not entitled to put her off-hire.

2 THE CHAIRMAN: No. What we are saying,  
3 is not enough simply to say you are an improper  
4 ship, you are not in good condition, we are putting  
5 you off-hire.  
6

7 We are simply saying you must state your  
8 case, prove your case at the time you intend to  
9 take her off-hire.

10 For instance, this ship was not inoperable.  
11 You give her the notice on June 21st in that  
12 letter. She went on to handle other cargo.

13 Have you proved that cargo subsequent to  
14 that notice was a disaster?

15 MR. ASHWORTH: We can, we can.

16 THE CHAIRMAN: You have not done it as of the  
17 time. You held the matter.

18 MR. SMITH: If this contamination matter be-  
19 comes a problem, we will have to bring it in and  
20 make it part of the arbitration, which we had not  
21 intended to do.

22 That this contamination was not caused by  
23 the negligence of the vessel in any way, and we  
24 are ready to prove that when the right time comes.

25 So if you are going to use that to support



1 this argument for the Panel changing its decision  
2 at this time, I will have to resist that very  
3 strenuously, and if you like, I will take you into  
4 the privacy of my office and show you something  
5 I have regarding that contamination.  
6

7 MR. ASHWORTH: I just want to make clear and  
8 understand myself that the Panel, whether the  
9 Panel is ruling that if we prove what we asserted  
10 in the June 21st letter, whether the Panel agrees  
11 the ship is properly off-hire.

12 THE CHAIRMAN: We have stated that this  
13 decision is without prejudice to any claim you  
14 may present in this proceeding.

15 MR. ASHWORTH: Supposing we go forward with  
16 the witness at this time and I will consider what,  
17 if any, further application I will make to the  
18 Panel?

19 THE CHAIRMAN: Fine. You are going ahead  
20 with the testimony of Mr. deVries?

21 MR. ASHWORTH: Yes.

22 THE CHAIRMAN: I remind you, Mr. deVries,  
23 you are still under oath.  
24  
25



STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

I, RICHARD BURSKY, a Shorthand (Stenotype)

Reporter and Notary Public of the State of New York,  
do hereby certify that the foregoing Pages 99 through  
157, taken at the time and place aforesaid, is a true  
and correct transcription of my shorthand notes.

I further certify that I am neither counsel for  
nor related to any party to said action, nor in any  
wise interested in the result or outcome thereof.

IN WITNESS WHEREOF, I have hereunto set my name  
this 16th day of September, 1976.

  
\_\_\_\_\_  
RICHARD BURSKY

A-102  
3710-91

# DELIVER

Rec'd by Mail Room Date 1-27 Time 4:05

Delivered by Gardner Date 1-27 Time 5:05

Supervisor CA

September 27, 1976

The Honorable Lee P. Gagliardi  
United States District Judge  
United States District Court  
Southern District of New York  
United States Courthouse  
Foley Square  
New York, New York

In Re: Sounion Shipping Inc., et al. v.  
Parcel Tankers, Inc. - 76 Civ. 3705  
(LPG)

Dear Judge Gagliardi:

\* As requested by Mr. Elliott, we enclose copy of the  
Opinion rendered by the Arbitration Panel on September 24th.  
We have advised counsel for plaintiffs that Your Honor will  
hear us at 9:15 tomorrow morning.

Respectfully submitted,

HAIGHT, CARDNER, POOR & HAVENS

By

Richard G. Ashworth

RGA/lw

\*Enc.

cc: Messrs. Burlingham Underwood & Lord  
Attention Joseph C. Smith, Esq.



The Panel has serious doubts as to whether it should be involved in what amounts to an elaboration of its Interim Award of September 16, 1976. Subject to that reservation, it offers this opinion in response to the request of the Court for the assistance and/or ideas of the Panel concerning the following condition the Charterers wish to attach to the hire payment they were directed to make in the Interim Award:

Charterers Requested Condition

"Such payment to be made and received by the Mortgagee named in the Charter Party subject to agreement that if the Panel subsequently determines that Charterer is entitled to an award, that so much of such payment as is necessary to satisfy that award will be refunded by the Mortgagee."

In the Interim Award the Panel directed payment "in accordance with the terms of the Charter" and without prejudice to the claims of either party in these proceedings.

It appears that under the Charter Assignment and Consent Agreements that the Mortgagee is only entitled to receive net hire amounts that may be due under the Charter without prejudice to Charterers rights to set-offs.

Since the Interim Award appears to be consistent with this basic right of the Charterers in the Charter Contract of which the Charter Assignment and Consent Agreements are a part, it is the majority opinion of the Panel that the Charterers are entitled to attach the requested condition to the hire payment they will make. Mr. Boulalas dissents.

Agreed:

Robert Kingston  
Robert Kingston

Agreed:

H. L. Cederholm  
H. L. Cederholm

I DISSENT  
~~Agreed:~~

A. C. Boulalas  
A. C. Boulalas

A-104

BURLINGHAM UNDERWOOD & LORD

HERBERT M. LORD  
HERVEY C. ALLEN  
ELLIOTT B. NIXON  
WILLIAM M. KIMBALL  
ELKAN TURK, JR.  
JAMES W. LYNCH  
KENNETH H. VOLK  
JOSEPH C. SMITH  
ROBERT B. POHL  
JOHN S. ROGERS  
L. ASHLEY ROBINSON

DAVID L. FOSB  
MICHAEL MARKS COHEN  
JOHN F. O'CONNELL  
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WU TWX 710 561 6236  
CABLES: POLYCARPON

BY HAND

25 BROADWAY, NEW YORK, N. Y. 10004

September 27, 1976

The Honorable Lee P. Gagliardi  
United States District Judge  
United States District Court  
Southern District of New York  
United States Courthouse  
Foley Square  
New York, New York

In Re: Sounion Shipping Inc., et al. v.  
Parcel Tankers, Inc. - 76 Civ. 3705  
(LPG)

Dear Judge Gagliardi:

So that the record will be complete when the Court considers this matter, we enclose herewith a copy of the Judgment which the Owner will request be entered on the Interim Award of the Arbitration Panel.

Respectfully submitted,

BURLINGHAM UNDERWOOD & LORD  
Attorneys for Plaintiff  
Armco Financial Corporation, AG

  
Joseph C. Smith

JCS:mpg

encls.

cc: Messrs. Haight, Gardner, Poor & Havens  
Attn: Richard G. Ashworth, Esq.



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X	
SOUNION SHIPPING INC., as Owner of the M.T. STOLT ARGOBAY, and,	:
ARMCO FINANCIAL CORPORATION, AG, as Mortgagee of the M.T. STOLT ARGOBAY, and Charter Party Assignee,	:
Plaintiffs,	: <u>JUDGMENT</u>
- against -	: 76 Civ. 3705 (LPG)
PARCEL TANKERS, INC., as Charterer of the M.T. STOLT ARGOBAY, <u>in</u> <u>personam</u> , and	:
Sub-Freights of the M.T. STOLT ARGOBAY, <u>in rem</u> ,	:
Defendants.	:
----- X	

This cause having been referred to arbitration pursuant to the Charter Party between Sounion Shipping, Inc., as Owner, and Parcel Tankers, Inc., as Charterer, dated February 6, 1973, and hearings held before the Panel of Arbitrators on September 14, 1976 and subsequent dates, and upon evidence, argument and briefs submitted by the attorneys for the respective parties, the Panel of Arbitrators, after due deliberation, having rendered by unanimous vote an Interim Arbitration Decision dated September 16, 1976 finding that the Charterer, Parcel Tankers, Inc., is not justified in withholding hire as due and required under Clause 5 and directing that full charter hire be paid to the Owner to date in accordance with the terms of the Charter, it is

ORDERED, ADJUDGED AND DECREED that Plaintiffs Sounion Shipping, Inc. and Armco Financial Corporation, AG,

A-106

recover of and from the Defendant, Parcel Tankers, Inc., the sum of \$223,888.21 plus interest of \$1,625.68 for a total of \$225,513.89, and it is further

ORDERED, ADJUDGED AND DECREED that unless the judgment be satisfied, or proceedings thereon stayed by an appeal, within ten days after the entry of this judgment, the Plaintiffs shall have execution against the Defendant, his goods, chattels and lands to satisfy this judgment.

Dated: New York, New York

September , 1976

LEE P. GAGLIARDI  
Presiding Judge

T O : HAIGHT GARDNER POOR & HAVENS  
Attorneys for Defendant  
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New York, New York 10004

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Sounion Shipping, Inc.  
21 West Street  
New York, New York 10006

BURLINGHAM UNDERWOOD & LORD  
Attorneys for Plaintiff  
Araco Financial Corp., AG  
25 Broadway  
New York, New York 10004



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	x
SOUNION SHIPPING INC., as Owner of	:
the M/T STOLT ARGOBAY, and,	:
ARMCO FINANCIAL CORPORATION, AG,	:
as Mortgagee of the M.T. STOLT	:
ARGOBAY, and Charter Party Assignee,	:
Plaintiffs,	: 76 Civ.3705 (LPG)
- against -	:
PARCEL TANKERS, INC., as Charterer of	:
the M/T STOLT ARGOBAY, <u>in personam</u> ,	:
and,	:
Sub-Freights of the M.T. STOLT ARGOBAY,	:
<u>in rem</u> ,	:
Defendants.	:
-----	x

AFFIDAVIT

ROBERT J. ZAPF, being duly sworn, deposes and says:

1. He is an associate with the law firm of Burlingham Underwood and Lord, attorneys for one of the plaintiffs herein; and is fully familiar with the pleadings and proceedings had heretofore herein.

2. This action arises out of a breach by the charterer of the Time Charter of the M.T. STOLT ARGOBAY dated February 6, 1973 between Sounion Shipping, Inc. as owner and Parcel Tankers, as charterer. By addendum dated July 8, 1974, it was agreed that payment of hire would be made to Armco Financial Corporation, AG for credit to the Spartan-Sounion Cash Collateral Account. A copy of the Charter Party and addendum are annexed hereto as Exhibit 1.

3. The plaintiff Sounion Shipping, Inc. and defendant Parcel Tankers, Inc. agreed to submit their claims to arbitration pursuant to Clause 53 of the Charter Party

which provides in relevant part:

"...and judgment may be entered upon any award made hereunder in any Court having jurisdiction in the premises."

4. On September 15, 1976 plaintiff Sounion Shipping, Inc. requested the arbitrators to render an interim award directing the payment of hire withheld by the charterer, defendant Parcel Tankers, Inc., since it placed the vessel off-hire on July 23, 1976. On September 16, 1976, the arbitrators rendered a unanimous Interim Arbitration Decision, which provides in relevant part:

"...The Charterer is not justified in withholding hire as due and required under Clause 5.

The Panel directs that full charter hire be paid to the Owner to date in accordance with the terms of the Charter."

A copy of the Interim Arbitration Decision is annexed hereto as Exhibit 2.

5. The net charter hire due to the owner as of September 16, 1976, the date of the Interim Arbitration Decision, was the sum of \$223,888.21, no part of which has been paid although duly demanded. Interest on the sums due has been calculated to September 27, 1976 and amounts to \$1,625.68. A calculation of Hire Due is annexed hereto as Exhibit 3.

6. Plaintiff Sounion Shipping, Inc. seeks to enter judgment on the award of the arbitration panel pursuant to the above mentioned Clause 53 of the Time Charter Party, and 9 U.S.C.A. §207 in the total sum of \$225,513.89 repre-



senting the net amount due under the Interim Arbitration  
Decision together with interest up to and including  
September 27, 1976.

Robert J. Zapp  
Robert J. Zapp

Sworn to before me this  
27th day of September 1976.

Regina H. Blenk  
Notary Public

REGINA H. BLENK  
Notary Public, State of New York  
No. 41-4507613  
Qualified in Queens County  
Certificate filed in New York County  
Commission Expires March 30, 1977

February 6 1973

DESCRIPTION  
OF  
VESSEL

**160°F**

SEAS-  
WEIGHT

PER 103

ONCE  
SLIVELY

**LEAGUE**

See Clause No. 56.

owners' motion change to creek flag

good  
working  
condition

# EXHIBIT

1



A-110

but first 3 months to be paid monthly in advance

probable port and 15 days notice of definite port of redelivery.

COMMENCE-  
MENT OF  
MARS

**MLK**

79  
80  
81

In the event the Charterer utilizes the Vessel's deadweight in excess of the basic deadweight of \_\_\_\_\_ (tons (2,240 lbs.) (if, when and to the extent used) the following procedure shall be followed by the Owner in submitting invoices to the Charterer for reimbursement:

- In the instances where the theoretical ballast voyage involves calculation via Suez or Panama Canal the distances used should be from departure final discharge port to arrival canal and from departure canal to theoretical arrival loading port. In addition, an allowance of 18 hours for Suez and 12 hours for Panama transit is to be made.

3. The quantity of excess deadweight utilized shall be calculated using the following formula:

Actual Tons (2,240 lbs.)	Cargo loaded (shore figures)	105
		105

Plus: Buckers		103
---------------	--	-----

Value	100
-------	-----

Notes                      100

Recovered Oil 110

(if any)                      111

<b>Total</b>	<u>112</u>
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Less: Basic deadweight                      113

Additional deadweight utilized \_\_\_\_\_ 119

4. Exceptions: / 115

- a. If discharge port is the port of redelivery under Clause Five (5) hereof, hire shall cease at time of such redelivery. 116  
117
- b. If vessel proceeds from loading port to discharge port via Cape of Good Hope, it is understood the ballast leg shall be calculated as if the vessel had proceeded via the Suez Canal. 118  
119  
120
- c. If vessel is lost prior to the expiry of such voyage referred to above, hire shall cease at the time of such loss. 121  
122

~~Letting the matter rest without that the matter being closed in a final~~ 129

4) include a commitment to \_\_\_\_\_ for student instruction. With effect 124  
from the commencement of the Charter, while the Veto is in place. It is agreed that the 125  
Government will only be able to pay out a limited number of \_\_\_\_\_ in the following 126

that the Charterers will pay  
the owner



However Charterers to receive 5 (five) days of grace after Owners' notification of nonpayment.

at Beaufort Scale 5, and Owners will not make any speed claim unless speed is averaging in excess of

to Charter of U.S. Dollars \$158.95 per hour each part of an hour that vessel steams below minimum speed stipulated in Clause 8. Calculation to be made in accordance with Exhibit "A" attached.

determining the vessel's performance a) and b) the statistical data supplied by the Master with Clause 24.

The Owner understands and agrees that he will receive no credit or compensation if the Vessel is able to discharge at a rate greater than those specified above.

SPEED FUEL CON- SUMPTION PUMPING PERFORMANCE	a) Tonnage and cost of extra fuel loading imposed by the Master on Charterer's account.	127
	b) Cost for all telephone calls, radio messages and telegrams sent for Charterer's account.	128
	c) Cost of all overtime worked at request of Charterer or its Agents. In this connection the Master shall prosecute his voyage with the utmost dispatch and shall render all reasonable assist- ance with the Vessel's crew and equipment, overtime of Officers and Crew to be worked at request of Charterer or its Agents.	129
	d) Less Owner's payment for heating quarters, etc. Owner's rags, galley fuel, domestic water	130
ADJUST- MENT OF HIRE	7. In default of punctual and regular payment as herein specified, the Owner shall have the faculty of withdrawing the Vessel from the service of the Charterer, without prejudice to any claim it (the Owner) may ultimately have on the Charterer in pursuance of this Charter.	131
	8. The Owner stipulates that the Vessel is capable of maintaining and shall maintain throughout the period of this Charter Party on all sea passages from Seabury to Isabouy speed will be determined by taking the total miles at sea divided by the total hours at sea	132
	as shown in the log books) a guaranteed minimum average speed in moderate weather of <u>13.75</u> knots (including stops at sea which are not counted as period of off hire in the terms of this Charter Party) on a guaranteed maximum daily consumption of <u>28</u> (2,240) lbs. of diesel/Bunker C/high viscosity fuel oil maximum <u>1,500</u> sec. Reduced No. 1	133
	at 100°F. for main engine, and <u>1.5</u> tons of 2,240 lbs. of diesel for auxili- aries including heating cargo and tank cleaning. The Owner further guarantees that the vessel is equipped with <u>10</u> main cargo pumps and <u>2</u> stripping pumps giving a guaranteed discharge rate of <u>2,000</u> tons water per hour against a back pressure of <u>100</u> pounds per square inch. Under this condition vessel is capable of completing discharge of a full cargo of water in a maximum of <u>18</u> hours.	134
	9. The speed, consumption and pumping performance guaranteed by the Owner in the paragraph above will be reviewed by the Charterer after THREE CALENDAR MONTHS counting from the time of delivery of the vessel to the Charterer in accordance with this Charter Party and then after at the end of each THREE CALENDAR MONTHS period. If at the end of each TWELVE (12) CALENDAR MONTHS period it is found that the Vessel has failed to maintain as an average dur- ing the preceding TWELVE (12) CALENDAR MONTHS period the speed and/or consumption and/or pumping performance stipulated above, the Charterer shall be retroactively compensated in respect of such failings as follows:	135
	a) Speed - Reduction of <u>per cent</u> per hour for each hour of delay below the guaranteed minimum speed.	136
	b) Consumption - The Owner to reimburse the Charterer for each ton of 2,240 lbs. or pro rata for part of a ton in excess of the guaranteed maximum daily consumption for main engine and/or auxiliaries including any excess not borne by the Owner in accordance with the off-hire clause of this Charter Party at the contract price for the Charterers contract price for <u>Aruba</u> for the total period under review.	137
	c) Pumping - A vessel to be considered off hire for each hour or part of an hour in excess of a maximum number of hours stipulated above for completing discharge of a full cargo of water against a back pressure of <u>100</u> pounds per square inch. Any delay to Vessel's discharge caused by shore conditions shall be taken into account in the assessment of pumping performance.	138
	d) Owners to have similar privileges under this Clause for increasing hire, as Char- terers do for decreasing hire, should Vessel performance as concerns speed and/or consumption and/or pumping be in excess of descriptions outlined herein. See clause 77.	139
	In the event of Charterer having a claim in respect of Vessel's performance during the final year or part year of the Charter period and any extension thereof, the amount of such claim shall be settled in accordance with Charterer's estimate made about two months before the end of the Charter period and any necessary adjustment after the end of the Charter shall be made by the Owner to the Charterer or the Charterer to the Owner as the case may require.	140
	10. Should the Vessel be on her voyage towards the port of redelivery at the time a payment of hire becomes due, said payment shall be made for such length of time as the Owner or its Agents and the Charterer or its Agents may agree upon as the estimated time necessary to complete the voyage, less disbursements arranged by Charterer for Owner's account, and less estimated value of fuel in bunkers at the termination of the voyage, and when the Vessel is redelivered to Owner any difference shall be refunded to or paid by the Charterer as the case may require.	141
		142

A-111  
Owner to  
Charterer  
with  
supporting  
documents

200-per  
calendar month

such overtime to be escalated with 5% p.a. compounded.  
any stripping operations due to sequence and  
Owner for kind of films and can deviation.  
grades to be discharged.



OFF-  
HIRE

11. In the event of any time from deficiency of man or stores, breakdown of machinery, interference by authorities, collision, stranding, fire or other accident or damage to the vessel, not caused by the fault of the charterer, preventing the working of the vessel for more than twelve consecutive hours, or in the event of loss of time from breach of warranty or neglect of duty by the Master, Officers or Crew, or from detention of the vessel by any authority, any injured or ill person on board other than any who may be carried at Charterer's request, payment of hire shall cease for all time lost until the vessel is again in an efficient state to resume her service and has regained a point of progress equivalent to that when the hire ceased hereunder; cost of fuel consumed while the vessel is off hire hereunder, as well as all port charges, pilotages and other expenses incurred during such period and consequent upon the putting in to any port or place other than to which the vessel is bound, shall be borne by the Owner; but should the vessel be delayed or driven into port or to anchorage by stress of weather or on account of accident to or other consideration for her cargo, such delay, departure, or loss of time, shall be for Charterer's account. If upon the voyage the speed of the vessel be reduced, or her fuel consumption increased, by breakdown, casualty, or inefficiency of Master, Officers or Crew, so as to cause a delay of more than twenty-four hours or an excess consumption of more than one day's fuel, hire for the time lost and cost of extra fuel consumed, if any, shall be borne by the Owner. Any delay by ice or time spent in quarantine shall be for Charterer's account, except delay in quarantine resulting from the Master, Officers or Crew having communications with the shore at an infected port, where the Charterer has given the Master adequate written notice of the infection, which shall be for Owner's account, as shall also be any loss of time through detention by authorities as a result of charges of smuggling or of other infraction of law by the Master, Officers or Crew. Notwithstanding the foregoing provisions no time will be allowed Owner in excess of 144 hours annually.

12. The time the vessel is off hire during the original term of this Charter or any extension thereof, pursuant to the provisions of this Charter, shall be added to the original term or the extension during which the time off occurs, if the Charterer so elects and gives the Owner written notice of such election at least 30 days prior to expiry of the original term or extension during which the time off occurs, but time off during the original term may not be added to any extension thereof.

LOSS OF  
VESSEL

13. Should the vessel be lost or become a constructive total loss, hire shall cease on the day of her loss or constructive total loss, and if missing, from the date when last heard of, and any hire paid in advance and not earned shall be returned to the Charterer. If the vessel is missing or off hire at the time when hire becomes payable, payment of said hire shall be suspended until safety is ascertained or the off hire period ceases.

LIENS

14. The Owner shall have an absolute lien on all cargoes and subfreights for all amounts due under this Charter, and Charterer shall have a lien on the vessel for all moneys paid in advance and not earned, and for the value of fuel in bunkers.

ADVANCES

15. Any moneys advanced to the Master by the Charterer or its Agents or in payment of disbursements made for Owner's account to be subject to two and one-half per cent Commission and to be deductible from hire money earned or to be earned, and the Charterer to have a lien on the vessel for same.

DETENTION  
BY  
LEGAL  
ACTION

16. In the event of detention of the vessel by Authorities at home or abroad in consequence of legal action against the vessel or Owner whereby the vessel is rendered unavailable for Charterer's service for a period of 30 days, unless brought about by the act or neglect of the Charterer, the Charterer, by prompt written notice, shall have the election to cancel this Charter or to suspend same until the service can again be resumed, without prejudice to any right of claim for damage which the Charterer may have in the premises. Payment of hire to cease during time the vessel may be out of Charterer's service by the cause mentioned in this clause, unless the time out is less than 24 hours in which event there is to be no interruption in hire payments.

DRY-  
DOCKING

17. When the ship is drydocked to clean and paint the bottom, the Charterer agrees to send the vessel to a port where she can be cleared of oil and gas and drydock and paint. In such event the Owner shall always be solely responsible for clearing the vessel of oil and gas, but the expense and time thereof shall be for Charterer's account if drydocking the vessel is for the purpose of cleaning and painting bottom only, and for Owner's account if drydocking is for the purpose of effecting any repairs as well as cleaning and painting bottom. Incidental towages, pilotages, fuel, water and all other expenses of drydocking and painting shall be for Owner's account. In case of drydocking pursuant to this clause at a port where the vessel loads, discharges or bunkers under Charterer's orders, hire shall be suspended from the time vessel receives free pratique on arrival, if in ballast, or on completion of discharge of cargo, if she arrives loaded, until vessel is again ready for service. In case Charterer sends the vessel to a port for drydocking only, hire shall be suspended from the time of vessel's arrival at the Seabury inbound until her departure from the Seabury outbound, and all port charges incurred and fuel and water consumed between these times are to be for Owner's account, including Agency fee, the Owner having the privilege of appointing its own agents at such port.

OWNER TO  
PROVIDE

18. The Owner shall provide and pay for all provisions, deck and engine room stores, galley and cabin stores and galley and crew fuel, and insurance on the vessel; wages of the Master, Officers and Crew; consular fees pertaining to the Master, Officers and Crew; and all fuel, water used by the vessel for domestic purpose.

19. The Owner guarantees the vessel is constructed and equipped to carry 28 grades of oil. If for any reason vessel, upon arrival at loading port, is unable to load the required number of grades, Charterer will do its utmost to provide a suitable cargo consistent with vessel's capabilities; however, if this is not possible vessel is to proceed to the nearest repair port in ballast and repair all bilgehead leaks necessary, any time and expense being for Owner's account.



CHARTERER  
TO  
PROVIDE

unless same is  
Charterers'  
property

contract

DUTIES OF  
THE MASTER

BILLS OF  
LADING

USE OF  
VESSEL

EQUIP-  
MENT

carrying

CONDITIONS  
OF TANKS

PREVIOUS  
CARGOES

SAFE  
BERTH

DAMAGE TO  
OR CLAIMS  
ON CARGO

20. The Charterer (except during the period when the Vessel is off hire) shall provide and pay for all fuel except for heating and power as provided in Clause Eighteen (18). The Charterer shall also pay for all port charges, light dues, wharf dues, taxes and other Canal dues, pilotage, consular fees, except those pertaining to Master, Officers and Crew, tugs necessary for assisting the Vessel in, about and out of port for the purpose of carrying out this Charter, anchorage, commissions, expenses of loading and unloading cargo, and all other charges whatsoever except those herein stated as payable by the Owner. The Owner shall, however, reimburse the Charterer for any fuel used or any expenses incurred in making a general average sacrifice or expenditure, and for any fuel consumed during drydocking or repair of the Vessel.

21. The Charterer shall accept and pay for all fuel in the Vessel's bunkers, upon commencement of hire, and the Owner shall pay for all oil fuel in the Vessel's bunkers, on the expiry of this Charter at current market prices of the ports where the hire begins and ends respectively, or at market prices at the nearest recognized port, where they may be secured.

Oil on delivery and redelivery to be mutually agreed tons.

22. The Master, although appointed by the Owner, shall be under the orders and direction of the Charterer as regards employment of the Vessel, Agencies, or other arrangements.

23. If the Charterer shall have reason to be dissatisfied with the conduct of the Master, or Officers, the Owner shall, on receiving particulars of the complaint, investigate it, and if necessary make a change in the appointments.

24. The Master shall be furnished by the Charterer, from time to time, with all requisite instructions and sailing directions, and both he and the Engineers shall keep full and correct logs of the voyages, which are to be patent to the Charterer and its Agents, and abstracts of which are to be sent to the Charterer from each port of call.

25. Bills of Lading are to be signed at any rate of freight the Charterer or its Agents direct, without prejudice in this Charter, the Master attending daily, if required, at the offices of the Charterer or its Agents, to do so. However, at Charterer's option, Charterer and/or its Agents may sign Bills of Lading on behalf of the Master. The Charterer hereby agrees to indemnify the Owner against all consequences or liabilities that may arise from the Master, Charterer or its Agents signing Bills of Lading or other Documents inconsistent with this Charter, or from any irregularity in papers supplied by the Charterer or its Agents, or from complying with its or its Agent's orders.

26. The whole reach and burthen of the Vessel (but not more than she can reasonably stow and safely carry) shall be at the Charterer's disposal, reserving proper and sufficient space for Vessel's Officers, Crew, Master's cabin, tackle, apparel, furniture, fuel, provisions and stores.

27. The Master will not unreasonably apply a maximum rate per hour or number of grades when loading cargo. Supplier will be able to load the Vessel at the rates they deem necessary having due regard to the safety of the Vessel. If requested by Charterer, the Master will agree to discharge more than one grade simultaneously, provided the Master is satisfied the Vessel's pumps and cargo lines are in a condition to permit such discharge. Should at any time the condition of the Vessel's pumps and cargo lines not permit loading and/or discharge of more than one grade simultaneously, the Owner will agree to carry out necessary repairs as early as possible to enable the Vessel to load and/or discharge more than one grade simultaneously.

28. The Charterer shall have the option of shipping lawful merchandise in cases and/or cans and/or other packages in the Vessel's forehold, tween decks and/or other suitable space available, subject, however, to the Master's approval as to kind and character, amount and stowage. All charges for dunnage, loading, stowing and discharging so incurred shall be paid by the Charterer.

29. The Charterer, subject to the Owner's approval, shall be at liberty to fit any additional pumps and/or gear for loading or discharging cargo it may require beyond what is on board at the commencement of the Charter, and to make the necessary connections with steam or water pipes, such work to be done at its expense and time, and such pumps and/or gear so fitted to be considered its property, and the Charterer shall be at liberty to remove it at its expense and time during or at the expiry of this Charter; the Vessel to be left in her original condition to the Owner's satisfaction. See Clauses 57, 72, 75.

30. Vessel is to be redelivered to the Owner at the expiry of this Charter in a clean or dirty condition at Charterer's option. Vessel to be free of cargo with tank dry certificate.

31. The last two successive cargoes carried, or to be carried, by the Vessel immediately preceding her entering upon this Charter consisted, or will consist of see Clause 70.

32. The cargo or cargoes shall be laden and discharged in any dock, or at any wharf or place that the Charterer or its Agents may direct where the Vessel can always safely lie afloat.

33. The Owner guarantees that the Vessel is constructed and equipped to carry, without admixture, at least 20 qualities or descriptions of oil; but subject to this, neither the Owner nor the Vessel shall be responsible for any admixture if more than one quality of oil is shipped, nor for leakage, contamination or deterioration in quality of the cargo unless the admixture, leakage, contamination or deterioration results from (a) unseaworthiness existing at the time of loading or at the inception of the voyage which was discoverable by the exercise of due diligence, or (b) error or fault of the servants of the Owner in the loading, care or discharge of the cargo.







**SALVAGE** 42. All salvage moneys earned by the Vessel shall be divided equally between the Owner and the Charterer after deduction of Master's, Officers' and Crew's share, legal expenses, hire of Vessel during time lost, value of fuel consumed, repairs, of damage, if any, and any other extraordinary loss or expense sustained as a result of the service, which shall always be a first charge on such moneys. 421-427

**WAR CLAUSES** 43. No contraband of war shall be shipped, but Petroleum and/or its products shall not be deemed contraband of war for the purpose of this clause unless shipped or intended to be shipped to or intended for a country involved in war; nor shall the Vessel be required to enter any port that is in a state of blockade, or where hostilities are in progress, or any war zone, or zone deemed a danger zone in consequence of the existence of war, or actual hostilities, without the consent of the Owner, and if such consent be given then the Charterer will pay the cost of insuring the Vessel against all war risks in an amount equal to the value under her ordinary policy but not exceeding U.S. \$4,000,000. 428-435

44. In the event of the existence of war, or actual hostilities and the continuance of this Charter, the Charterer shall assume the proved additional cost of wages and insurance properly incurred in connection with the Master, Officers and Crew as a consequence of such war or actual hostilities. 436-439

45. Should the Vessel be requisitioned by any Government or Governmental Authority during the period of this Charter, she shall be off hire hereunder during the period of such requisition, and any hire or other compensation paid in respect of such requisition shall be for the Owner's account. The time the Vessel is on any such requisition shall count as part of the period provided in Clause Three (3) of this Charter. 440-444

46. Charter of Shipping War Risks Clauses (Tankers) 1952, as attached, are deemed to be incorporated in this Charter Party. 445-446

**LAY-UP** 47. The Charterer shall have the option of laying up the Vessel for all or any portion of the charter period, in which case hire hereunder, less the monthly amount of U.S. \$24,000 shall be paid. In addition, during the period of lay up, Charterer shall not be liable for the expenses stipulated in Clause Six (6) or Clause Twenty (20). Charterer will place Vessel in port of lay up selected by Owner in Europe, Far East or the United States and the resumption in hire will become effective Fourteen (14) days after arrival at such port and continue until 10 (ten) days prior to date vessel is again placed in service, or until termination of the Charter. 447-454

Should the Charterer, having exercised the option granted hereunder, desire the vessel again to be put into service, the Owner will, upon receipt of written notice from the Charterer to such effect, immediately take steps to restore the Vessel to service as promptly as possible. The option granted to the Charterer hereunder may be exercised one or more times during the currency of this Charter or any extension thereof. See Clause 76. 455-459

48. Damages for breach of this Charter shall include all provable damages and all costs and attorney fees incurred in any action or proceeding hereunder. 460-461

**DEMISE** 49. Nothing herein contained shall be construed as creating a demise of the Vessel to the Charterer. 462-463

**CLAUSE PARAMOUNT** 50. All Bills of Lading issued hereunder shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, approved April 15, 1924, which shall be deemed to be incorporated therein, and nothing therein or herein contained shall be deemed a surrender by the Owner of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of any Bill of Lading issued hereunder be repugnant to said Act to any extent, such term shall be void to that extent but no further. 464-470

**BOTH TO BLAME CLAUSE** 51. If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, mariner, pilot or the servants of the Owner in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder shall indemnify the Owner against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or Owner. The foregoing provisions shall also apply where the owners, operators or those in charge of any ships or objects other than, or in addition to, the colliding ships or object are at fault in respect of a collision or contact. 471-480

**OIL POLLUTION AVOIDANCE** 52. ~~The Owner agrees to participate in the Oil Pollution Prevention Program and to work in Charterer's own vessels. Such program prohibits discharge overboard of any oil, oily water, oily ballast or oil in any form of a persistent nature, except under extreme circumstances whereby the safety of the Vessel, cargo or life at sea would be imperiled.~~ 481-484

Upon notice being given to the Master by radio or other means that Oil Pollution Avoidance controls are required, the Master will contain on board the vessel all oil, residues from consolidated tank washings, dirty ballast etc. in one compartment after separation of all possible water has taken place. 485-486

The oil residues will be pumped ashore at the loading or discharging terminal, either as segregated oil, dirty ballast, mingled with cargo or as is possible for Charterer to arrange with each cargo. 487-489

If the Charterer requires that demulsifiers shall be used for the separation of oil from water, such demulsifiers shall be supplied by Charterer at its expense. 490-491

~~The Owner agrees to instruct the Master to furnish Charterer with a report covering the oil pollution avoidance measures taken during the charter party.~~ 492-493

See Clause 55. 494



A-116

ARBITRATION

53. Any and all differences and disputes of whatever nature arising out of this Charter shall be put in arbitration in the City of New York pursuant to the law existing to arbitration then in force, before a board of three persons, consisting of one arbitrator to be appointed by the Owner, one by the Charterer, and one by the two so chosen. The decision of any two of the three on any point or points shall be final. Either party hereon may call for such arbitration by service upon any officer of the other, wherever he may be found, of a written notice specifying the name and address of the arbitrator chosen by the first moving party and a brief description of the dispute or differences which such party desires to put to arbitration. If the other party shall not, by notice served upon an officer of the first moving party within twenty days of the service of such first notice, appoint its arbitrator to arbitrate the dispute or differences specified, then the first moving party shall have the right without further notice to appoint a second arbitrator, who shall be a disinterested person with precisely the same force and effect as if said second arbitrator has been appointed by the other party. In the event that the two arbitrators fail to appoint a third arbitrator within twenty days of the appointment of the second arbitrator, either arbitrator may apply to a Judge of any court of maritime jurisdiction in the city above-mentioned for the appointment of a third arbitrator, and the appointment of such arbitrator by such Judge on such application shall have precisely the same force and effect as if such arbitrator had been appointed by the two arbitrators. Until such time as the arbitrators finally close the hearings either party shall have the right by written notice served on the arbitrators and on an officer of the other party to specify further disputes or differences under this Charter for hearing and determination. Awards made in pursuance to this clause may include costs, including a reasonable allowance for attorney's fees, and judgment may be entered upon any award made hereunder in any Court having jurisdiction in the premises.

for the balance period

COMMISSION

54. 3.75 per cent commission shall be due by the Vessel and her Owner on all hire as paid under this Charter to

3.75 percent for the first 12 months and 2.5

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS CHARTER TO BE EXECUTED IN DUPLICATE THE DAY AND YEAR HEREIN FIRST ABOVE WRITTEN.

WITNESS TO SIGNATURE OF

WITNESS TO SIGNATURE OF

Clauses 55 to 82, both inclusive, as attached shall be deemed incorporated in this Charter Party.



Clause 55: Revised Tonalop Charter-Party Clause: Owners warrant that the Vessel is a Participating Tanker in TONALOP and will so remain during the currency of this Charter, provided however, that if Owners acquire the right to withdraw from TONALOP under Clause VII thereof, nothing herein shall prevent Owners from exercising that right.

When an escape or discharge of oil (the term "oil" for the purposes of this Clause meaning "oil" as defined in TONALOP) occurs from the Vessel and causes or threatens to cause pollution damage to coastlines. Charterers may, at their option, upon notice to Owners or Master, undertake such measures as are reasonably necessary to prevent or mitigate such damage, unless Owners promptly undertake same. Charterers shall keep Owners advised of the nature and result of any such measures taken by them, and if time permits, the nature of the measures intended to be taken by them. Any of the aforementioned measures taken by Charterers shall be deemed taken on Owners' authority and shall be at Owners' expense except to the extent that:

- (1) such escape or discharge was caused or contributed to by Charterers, or
- (2) Owners are or would have been exempt from liability for such escape or discharge by reason of the exceptions prescribed in Article III(2) of the 1969 International Convention on Civil Liability for Oil Pollution Damage, or
- (3) the cost of such measures together with Owners' own reasonable removal costs exceed One Hundred and Twenty-Five Dollars per Gross Registered Ton of the Vessel or Ten Million Dollars (whichever is less) in case the Vessel was carrying a cargo of oil not owned by an Oil Company Party to CRISTAL (as such ownership is defined in CRISTAL and the Rules promulgated thereunder) or in case the Vessel was in ballast.

PROVIDED ALWAYS that if Owners in their absolute discretion consider said measures should be discontinued, Owners shall so notify Charterers and thereafter Charterers shall have no right to continue said measures under the provisions of this Clause and all further liability to Charterers under this Clause shall thereupon cease.

The above provisions are not in derogation of such other rights as Charterers or Owners may have under this Charter, or may otherwise have or acquire by Law or any International Convention.

Clause 56: The vessel to be employed in Worldwide trading within I.W.L., where no extra insurance is involved. Charterers may with Owners' consent trade the vessel to other areas where extra insurance is involved and Owners' consent not to be unreasonably withheld and Charterer paying the extra insurance involved. The vessel shall not be required to trade to Cuba and Israel, North Korea, Red China and North Vietnam, or any other country prohibited by the vessel's flag or registry or other port or ports or areas which could involve blacklisting by major western Charterers, without Owners' consent, which shall not be unreasonably withheld. Should the political situation change causing no harm to the vessel and/or Owner by vessel calling at one or more of the above-excluded ports or areas

...continued



Clause 56  
Continued:

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Charterer has the privilege to trade vessel to such port(s) or area(s) upon obtaining Owners' consent which shall not be unreasonably withheld. The Charterer has the option to trade Great Lakes during Lake season. Extra insurance involved, if any, for Charterers' account. Lake fittings, if required, for Charterers' time and account unless vessel is Lakes fitted when she enters upon this Charter Party. Owners extra cost to crew for jumping vessel in locks to be billed separately.

Clause 57: The vessel to be employed in parcel trading with all liquids and dry cargoes that can safely be handled by tankers and for which the vessel is suitable according to tank segregation, lines and pumps. Owner shall exercise due diligence to maintain tanks' coating to Charterers' standard throughout the period of this Charter. However, if Charterer orders vessel to load cargo which is not included in the coating manufacturer's resistancy list - or approved by coating manufacturer and Owner warrants that said cargo has caused heavy and serious damage to the tank coatings, and Charterer demands repairs/recoating of such damage in excess of what can be carried out by vessel's crew, expenses for repairing damage to coatings to be borne by Charterer.

*Comments*

Notwithstanding the above, the Charterer has the right to load products not tested by coating manufacturer or considered harmful to the coatings, but in such case Charterer to repair and/or recoat the damage provided such repairs or recoating requested by Charterer. Whenever the words "petroleum" and "oil" appear in printed Charter Party, these shall be construed in conjunction with this clause. It is the mutual understanding between Owner and Charterer that parcel trade implies the carriage of up to as many grades as the vessel has tanks, subject only to the availability to the lines and pumps, and that prerequisite condition for this trade is that all bulkheads, lines and valves are tight and strong.



- Clause 58: Charterer shall have the option of subletting or assigning this Charter to any individual or company, but Charterer shall always remain fully responsible for the due fulfillment of the Charter in all its terms and conditions.
- Clause 59: Charterer has the right to load and discharge from/to barges when permitted by Port Authorities according to the usual practice, but only under weather conditions when no risk to the vessel according to Master's reasonable discretion. }
- Clause 60: Charterer may appoint a super-cargo(s) to accompany the vessel, paying U.S.\$3.00 per day for accommodation and fare as provided for a Captain's table. } x
- Clause 61: The Owner and the Charterer have the mutual rights of cancelling the Charter Party in case of major war between any two of the following powers: USA and/or Great Britain and/or France and/or USSR and/or People's Republic of China and/or Norway.

It is understood that "minor wars" or conflicts, like Korea and/or Suez and/or South Vietnam, etc., will be excluded.

No transport to be performed or continue to be performed under this Charter party which by the government or authorities of the country of registration or any other government or authority concerned may be deemed to be forbidden by any resolution of the Security Council of the United Nations as to the shipment of goods originating from or destined to Southern Rhodesia. Any licenses or documents which may be necessary in connection with such restrictions shall be procured by the Charterer.



- Clause 62: Owner agrees not to appoint any protective or sub-agent at ports where vessel will call under this Charter Party unless such agent is approved by the Charterer, except if a conflict of interest exists between charterers and owners, such agent is not to be a competitor of Charterers. It is understood that no agency fees will be charged to owners for normal assistance to the vessels operation.
- Clause 63: Present ordinary war and mine risk insurance, shall be for Owner's account, but war risk insurance for ship's evaluation in excess of present rates and/or extra insurance properly incurred on account of war or actual hostilities, to be for Charterer's account. Extra war insurance premium in force on the date of this Charter Party to be for Charterer's account.
- Clause 64: Any war bonus to Master, Officers and Crew and/or extra war insurance premium in force on the date of this Charter Party to be for Charterer's account. Any increase in said war bonus to Master, Officers and Crew on account of war or actual hostilities and/or vessel's trading area, coming in to force during the currency of this Charter Party to be for Charterer's account.
- Clause 65: The vessel shall not be ordered to nor bound to enter any icebound port or place or any place where light, lightships, markers and buoys on vessel's arrival are or are likely to be withdrawn by reason of ice or where the risk that ordinarily the vessel will not be able on account of ice to enter, reach or leave the place. If on account of ice the Master considers it dangerous to enter or remain at any loading or discharging place for fear of the vessel being frozen in and/or damaged, he shall have the liberty to sail under charterers' instructions to another place or port which is free from ice and at which there are facilities for loading or discharging cargo and there await Charterer's further instruction. Any ice risk premium to be for Charterer's account. The vessel shall not be bound to force ice.
- Clause 66: The fixture including rate, terms and conditions to be kept private and confidential.
- Clause 67: The vessel shall upon delivery to Charterer and throughout the Charter Party period have valid certificates to transit the Panama and Suez Canals and at any time throughout this Charter period, meet all requirements for the carriage of solvents and/or chemicals, etc. from vessel's flag as well as all national and international regulations.

It is understood and agreed that Owner to register vessel in Tonalop and dues for same, to be for Owner's account. It is further agreed that the vessel shall upon commencement of this Charter Party comply with all requirements set forth by Federal Maritime Commission of U.S.A. according to the Water



Clause 67:  
(Cont'd)

Quality Improvement Act of 1970, and Owner guarantees that the vessel at all times during the currency of this Charter Party will hold valid certificates according to this Act. It is further agreed that the Owner will arrange for other necessary certificates in relation to Oil Pollution which in the future might be required for calling ports of any country within vessel's trading limits.

Clause 68:

With regard to Clauses 40, 46 and 51, reference to these Clauses to be made in all Bills of Lading issued under this Charter Party. New Jason Clause, as attached, is deemed incorporated in this Charter.

Clause 69:

aa) Owner is at all times to keep the vessel's appearance neat and clean and painted including Charterer's House markings. Owner undertakes to maintain the machinery, boilers including exhaust boiler and freshwater evaporator in a thoroughly efficient state throughout the period of this Charter. Owner warrants that the vessel is fitted with coils in all cargo tanks in good working condition.

bb) Owner to keep the vessel sufficiently crewed to perform all functions normally connected to parcel trade, including cleaning, sweeping (squeegeeing) of tanks without delay to vessel. Charterer to provide and pay for cost of cleaning materials. Owner is to exercise due diligence as to high standard of crew when employing same and at least Master and Chief Officer to understand and speak English properly. Sweeping (squeegeeing) money in ports where the crew is required to do the sweeping to be paid by Charterer to the Owners as follows:

- a) Lumpsum U.S. Dollars 120 per tank of 1,000 CBM or larger
- b) Lumpsum U.S. Dollars 90 per tank of less than 1,000 CBM

Above lumpsums to be escalated with 5% per annum compounded.

Clause 70:

Upon delivery of vessel to Charterer all of vessel's coated tanks shall be clean to Charterer's Inspector's satisfaction for chemicals and/or solvents while all uncoated tanks shall be completely free of all rust and scale and clean to Charterer's Inspector's satisfaction for lubricating oils and/or vegetable oils and/or tallows and/or fats and/or waterwhite petroleum products and/or clean petroleum products and/or caustic soda, 47/50% solution.

Clause 71:

Chamber of Shipping War Risk Clauses (Tankers) 1952 1/2/3, as attached, to be incorporated in this Charter Party.



Clause 72: Charterer shall have the right to upgrade the vessel for his time and for his account by fitting of additional pumps and/or other permanent or portable equipment and/or tank coatings and/or lower vessel's coils in tanks where required. Subject Owner's approval (which shall not be unreasonably withheld) prior to redelivery, Charterer shall remove permanent or portable equipment on his time and for his account, the vessel to be left in her original condition to the owners' satisfaction, or at Charterer's option to leave such equipment onboard to become Owner's property free of charge to Owner.

Care and normal maintenance for such equipment, if any, to be effected by vessel's crew for Owner's account, but beyond the crew's capability to be for Charterer's account as well as spare parts.

Clause 73: Owner at all times to supply minimum 8(eight) Butterworth machines and sufficient hoses to operate same.

Clause 74: During the currency of this Charter Party, Owner shall not bring the vessel on the market for sale unless he has obtained Charterer's prior consent, except for the sale where Amership Agency, Inc. will remain the managing agents of the vessel, in which case the vessel will not be placed on the market.

Clause 75: Upon the expiration of this Charter Party Owner immediately to rename vessel ("STOLT" as first part of name to be deleted) unless he has obtained Charterer's prior consent to keep vessel's name unchanged.

Clause 76: During off-hire periods, Charterer has the right to replenishment of fuels and/or cleaning of tanks and/or conversion works as per Clause 29/72 provided above is not interfering with Owner's own works and provided yard/harbour authorities consent. (See also Clauses 29/47/72). This Clause 76 is not valid in case of disputed off hire.

Clause 77: aa) Owner to have similar privileges under Clause 9 for receiving compensation as Charterer does should vessel's performance as concerns speed to be in excess or consumption to be below the description outlined herein.

10  
20-10  
bb) Charterer shall have the right to deduct claims resulting from poor performance from monthly hire payments after Owner has reviewed statistical data and claim presented by Charterer, Owner agrees to complete this review within thirty (30) days after receipt of claim of Charterer. If Owner fails to reply within thirty (30) days, Charterer to have the right to automatically deduct amount of claim from next hire payment.



Clause 77:  
(Cont'd)

EXHIBIT "A"

With reference to Clauses 8 and 9 the Speed Performance shall be calculated as follows:

Speed Performance Calculation

1. Average speed under mod. weather conditions as per line 148 divided by the speed stipulated in Clause 8 times actual hours under all weather conditions as per line 148 equals Charter Party Hours.
2. Actual hours under moderate weather conditions as per line 148 less Charter Party Hours times hire per hour equals speed difference.

EXAMPLE:

1.	<u>13.0 knots</u>	=	0.94545 x 4800 hours = 4538
	<u>13.75 knots</u>		Charter Party Hours
2.	4800 actual hours		
	-4538 Charter Party Hours		
	262 hours x U.S. Dollars 158.95 per hour		

To Calculate Hire Rate Per Hour

US Dollars 5.75 x 20,160 x 12 months = hire per hour US  
365 days x 24 hours Dollars 158.95

Clause 78:

With reference to line No. 4 of this Charter Party, Charterer shall propose a "STOLT" - name to the Owner which will be subject to Owner's reasonable approval.

Clause 79:

It is understood that Charterer shall have the right during the currency of this Charter Party to arrange for tanks to be recoated when desirable by Charterer and at their expense. Such work to be performed during Owners' normal drydocking and shall not interfere with Owners' work. Any time for such coating work beyond Owners' normal intended drydock and repair time, as specified by yards bid (which must include time) and class requirements to be counted as on-hire time at Owners' proven cost, but maximized to actual Time Charter hire. Charterers will provide and pay for such coating material and labor. Owners will subsequently maintain the coating as per Clauses 57 and 80.

Clause 80:

Charterers and Owners will appoint a coating manufacturer's representative to conduct an on-hire survey of coating condition. Such surveys will be repeated annually for coating maintenance. Such survey reports shall be deemed conclusive and binding on both parties. Cost of such surveys to be shared by Owners and Charterers fifty-fifty (50/50).

With reference to Clauses 57 and 79 above, it is agreed that owners will at least maintain the coating in the vessel to the standard it was when Owners took the vessel over from A/S Facto as evidenced by survey



- Clause 80: above. This Clause notwithstanding other rights and/or obligations for both Owners and Charterers under this Charter Party.  
(Cont'd)
- Clause 81: With reference to line 13 in preamble: It is understood that vessel will occasionally carry part cargoes of high-heat commodities requiring heat up to 180°F provided vessel is capable, with Owner's permission but not unreasonably withheld. This Clause to be seen in conjunction with Clause 57. It is understood that Charterers shall advise Owners of such high-heat requirements.
- Clause 82: Charter Assignment and Consent and Agreement to Charter Assignment as per specimen attached are acceptable by the Charterers.





ADDENDUM NO. 1

TO

**COPY** A-126

M/T "STOLT ARGOBAY" CHARTER PARTY DATED FEBRUARY 6, 1973

Referring to the above captioned Charter Party, it is hereby agreed between SOUNION SHIPPING, INC., Owners, and PARCEL TANKERS INC., Charterers, that:

1. Rate of hire as per line 77 hereof shall be increased by Dollars 0.75 per SDWT. per month to Dollars 6.50 per SDWT from June 1, 1974.
2. Charterer shall have the right to review the Charter Hire increase in case the vessel shall not be performing in accordance with the Charter Party for four (4) consecutive months not attributed to casualty to the vessel. It is understood that there will be no arbitrary change in the rates from Charterers' point of view and that Owners shall be advised of any change with minimum thirty (30) days advance notice.
3. It is Charterers' intention to make this increase permanent barring circumstances beyond their control in the Parcel Trade Market, making it impossible for Charterers to continue to trade at the improved rate.
4. No reduction in the increased hire shall be retroactive. In no event shall the rate of hire be reduced to below Dollars 5.75 SDWT.
5. Line 82 shall be deemed amended to provide for payment of hire to ARMCO FINANCIAL CORPORATION A.G. at Franklin National Bank, International Department, Suite 4747, One World Trade Center, New York, New York, 10048, for credit to the Spartan-Sounion Cash Collateral Account (Account No. 202-29-046-6).
6. In consideration of such increase of rate of hire, Amership Agency Inc. guarantees performance of Owners' obligation under the Charter Party, provided that this guarantee shall be of no further force and effect if the rate of hire is reduced.

AMERSHIP AGENCY, INC.

SOUNION SHIPPING, INC.

Witness:

Witness:

FOR PARCEL TANKERS INC.

  
STOLT-NIELSEN INC.

As Brokers Only

Witness:

July 8, 1974  
Greenwich, Connecticut



\*\*\*\*\*  
 In the Matter of Arbitration  
 - between -  
 SOUITION SHIPPING, INC.  
 Owner of the STOLT ARGOGAY  
 - and -  
 PARCEL TANKERS, INC.  
 Time Charterer  
 Charter Party dated  
 February 6, 1973  
 \*\*\*\*\*

INTERIM  
ARBITRATION  
DECISION

APPEARANCES

Burlingham, Underwood & Lord  
 Attorneys for Owner  
 By: Joseph C. Smith, Esq.  
 of Counsel

Haight, Gardner, Poor & Havens  
 Attorneys for Charterer  
 By: Richard G. Ashworth, Esq.  
 of Counsel

The Owner has requested the Panel to direct the payment of hire withheld by Charterer since it placed the vessel off hire on July 23, 1976. It is the Owner's position that the Charterer does not have the right of off hire for the reasons cited in the Charterer's letter to Captain Chavlaras dated Rotterdam, July 23, 1976.

Charterer contends that it is entitled by Clause 11 of the Charter Party to place the vessel off hire because the ship is not in proper condition to carry cargoes in the parcel trade for which it was chartered and that Charterer is justified by the specific language of Clause 11 to refuse to pay hire until the vessel is again in an efficient state.

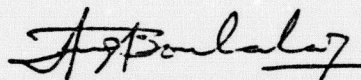
EXHIBIT 2



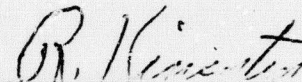
By unanimous decision the Panel finds that in the absence of specific off hire claims or incidents in excess of 12 hours or other detailed claims of itemized damages suffered by Charterer in consequence of causes mentioned in Clause 11, or elsewhere in the Charter Party, the Charterer is not justified in withholding hire as due and required under Clause 5.

The Panel directs that full charter hire be paid to the Owner to date in accordance with the terms of the Charter.

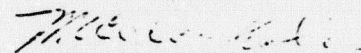
This decision in no way prejudices any claim either party may present to a Panel for final consideration and award in these proceedings.



A. C. Boulalas, Arbitrator



R. Kingston, Arbitrator



H. L. Cedernholm, Chairman

New York, N. Y.  
September 16, 1976



COMPUTATION OF HIRE DUE  
AS OF SEPTEMBER 27, 1976

July 23, 1976 to August 8, 1976:

Hire Due	-	\$	58,017.50
Overtime Due	-		<u>1,736.44</u>
			59,753.94
Less Fuel	-	100.00	
Less Commission	-	<u>1,450.44</u>	
		1,550.44	-
			<u>-1,550.44</u>
			58,203.50

6% Annual Rate of Interest = 0.0001643 daily rate of interest

Interest on \$58,203.50 for 66 days

(July 23, 1976 to September 27, 1976) - \$ 631.15  
+ 58,203.50

Amount due Owner - \$ 58,834.65

August 8, 1976 to August 23, 1976:

Hire Due	-	\$	58,017.50
Overtime Due	-		<u>1,736.44</u>
			59,753.94
Less Fuel	-	100.00	
Less Commission	-	<u>1,450.44</u>	
		1,550.44	-
			<u>-1,550.44</u>
			58,203.50

6% Annual Rate of Interest = 0.0001643 daily rate of interest

Interest on \$58,203.50 for 50 days

(August 8, 1976 to September 27, 1976) \$ 478.14  
+ 58,203.40

Amount due Owner - \$58,681.64

EXHIBIT 3



A-130

August 23, 1976 to September 8, 1976:

Hire Due	-	\$ 58,017.50
Overtime Due	-	<u>1,736.44</u>
		59,753.94
Less Fuel	- 100.00	
Less Commission	- <u>1,450.44</u>	
	1,550.44 -	<u>-1,550.44</u>
		58,203.50

6% Annual Rate of Interest = 0.0001643 daily rate of interest

Interest on \$58,203.50 for 35 days -

(August 23, 1976 to September 27, 1976) = \$ 334.70  
+ 58,203.50

Amount due Owner - \$ 58,538.20

September 8, 1976 to September 23, 1976:

Hire Due	-	\$ 58,017.50
Overtime Due	-	<u>1,736.44</u>
		59,753.94
Less Fuel	- 100.00	
Less Commission	- <u>1,450.44</u>	
	1,550.44	

6% Annual Rate of Interest = 0.0001643 daily rate of interest

Interest on \$58,203.50 for 19 days -

(September 8, 1976 to September 23, 1976) = \$ 181.69  
+ 58,203.50

Amount due Owner - \$ 58,385.19

Gross amount due Owner as of Date of the Award:

	\$234,439.68
Less Owner's Expenses	<u>8,925.79</u>
Net Amount due Owner	\$225,513.89



A-131

J. WARD O'NEILL  
BERNARD D. ATWOOD  
JAMES M. ESTABROOK  
EDWARD H. MAHLA  
JOHN C. MOORE  
MAC DONALD DEMING  
JOHN OSNATO, JR.  
WILLIAM J. JUNKERMAN  
GORDON W. PAULSEN  
M. E. DEORCHIS  
WILLIAM P. KAIN, JR.  
DAVID P. M. WATSON  
RICHARD G. ASHWORTH  
EDWARD L. JOHNSON  
RICHARD B. BARNETT  
MAURICE L. NOYER  
BENFORD C. MILLER  
FRANCIS X. BYRN  
THOMAS R. M. HOWARTH  
STEPHEN K. CARR  
WALTER E. RUTHERFORD  
R. GLENN BAUER  
THEODORE M. SYSOL  
CARROLL E. DUBUC  
THOMAS F. MOLANPHY  
LEONARD K. RAMBUSCH  
JAMES J. BENNETT, JR.  
RANDAL R. CRYST, JR.  
WILLIAM J. HONAN III  
CHESTER D. HOOPER

HAIGHT, GARDNER, POOR & HAVENS

ONE STATE STREET PLAZA

NEW YORK, N. Y. 10004

TELEPHONE (212) 344-6800

CABLE: MOTOR NEW YORK  
HCA TELEX: 222974  
WU TELEX: 620362  
WU TELEX: 127683

WASHINGTON OFFICE  
FEDERAL BAR BUILDING  
1819 H STREET, N.W.  
WASHINGTON, D. C. 20006  
TELEPHONE (202) 737-7647  
CABLE: MOTOR WASHINGTON  
WASHINGTON WU TELEX: 692598  
RALPH E. CASEY  
CARROLL E. DUBUC  
RESIDENT PARTNERS, WASHINGTON

September 29, 1976

BY HAND

The Honorable Lee P. Gagliardi  
United States District Judge  
United States District Court  
Southern District of New York  
United States Courthouse  
Foley Square  
New York, N. Y. 10007

SOUNION SHIPPING INC., et al.,  
v.  
PARCEL TANKERS, INC., et al.  
76 Civ. 3705 LPG

Dear Judge Gagliardi:

We submit herewith proposed order, in accordance with Your Honor's direction at the hearing yesterday. In support of the paragraph entitled "DETERMINED" we would call Your Honor's attention to FRCP 52(b) and the following observations in TPO Inc. v. F.D.I.C., 47 F.2d 131, 134 (3rd Cir. 1973):

"The opinion is in accord with other authority which questions the advisability of the entry of judgment against one party if it appears that ultimately he may recover judgment against the moving party after trial. See 3 Barron & Holtzhoff, Federal Practice & Procedure, § 1241. Particular caution also must be exercised when the claim and counterclaim are so closely related that an issue of fact in one may prove to be important to both.

We see no special circumstances in the record which would favor the entry of judgment in favor of TPO at this time when it is possible that subsequent litigation may require a return of the sum awarded and perhaps additional monies. See Rule 54(b), 3 Moore's Federal Practice §13.16."



2- The Honorable Lee P. Gagliardi

At the hearing the writer also referred to FRCP 62(h), providing for stay of enforcement of a final judgment entered under FRCP 54(b). The form of order submitted with this letter would deny plaintiffs' application for entry of judgment at this time. If, however, Your Honor should determine to enter judgment as sought by plaintiffs, then we would respectfully urge that a paragraph be added to the judgment, as follows:

"ORDERED that execution of this judgment be stayed pending the occurrence of any one of the following:

(1) plaintiffs giving security in the usual amount and form to respond in damages to the claims set forth in defendant's counterclaim; or

(2) plaintiffs agreeing in writing to refund so much of any payment made by defendant pursuant to the judgment as is necessary to pay any arbitration award in defendant's favor; or

(3) the entry of judgment on an arbitration decision finally determining all of plaintiffs' and defendant's claims."

Respectfully submitted,

HAIGHT, GARDNER, POOR & HAVENS

By

  
Richard G. Ashworth

RGA/je

Enc.

cc: Messrs. Burlingham Underwood & Lord  
Attention: Joseph C. Smith, Esq.



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
SOUNION SHIPPING INC., :  
et al., :

Plaintiffs, :

- against - :

PARCEL TANKERS, INC., :  
et al., :

Defendants. :

-----x

ORDER

76 Civ. 3705 LPG

Defendant having applied to the Court by order to show cause why an order should not enter, pursuant to Supplemental Rule E(7) of the Supplemental Rules to the Federal Rules of Civil Procedure, requiring plaintiffs to give security to respond to defendant's counterclaims; and the arbitration panel to which the claims set forth in the complaint and counterclaim have been submitted having issued an interim arbitration decision and an opinion elaborating thereon; and plaintiffs having applied to the Court to enter judgment on said interim arbitration decision; and defendant having opposed, pursuant to FRCP 54(b), the entry of judgment on only one of the claims in suit, on the ground that there is just reason for delay in that (1) part of the damages sought by defendant in its counterclaim are alleged to result from its paying hire for a vessel whose services are unavailable to it because of alleged breach of charter by plaintiff Sounion, (2) it appears from plaintiffs' opposition to defendant's application for security that plaintiff Sounion probably does not have sufficient assets to respond in damages in the event of an award and judgment in defendant's favor, (3) hire payments under the charter are to be paid to plaintiff Armco under an assignment and

EXHIBIT 3-B



consent which bar recovery back from Armco of any amounts due to defendant from plaintiff Sounion, with the distinct possibility that if the arbitration panel makes an award in defendant's favor in an amount in excess of the hire for which judgment is presently sought by plaintiffs, defendant in the absence of such agreement or security from plaintiffs might find itself having paid hire to plaintiff Armco but unable to recover its own damage based on breaches arising out of the same charter party, and (4) the arbitration panel has rendered an opinion that defendant is entitled to condition any payment of hire upon plaintiff Armco's agreement to refund so much as may be necessary to pay an award in defendant's favor, it is now by the Court

ORDERED that unless plaintiffs agree in writing to refund so much of any payment made by defendant pursuant to the interim arbitration decision as is necessary to pay any arbitration award in defendant's favor, plaintiffs forthwith give security in the usual amount and form to respond in damages to the claims set forth in defendant's counterclaim; and it is further

ORDERED that upon each payment pursuant to the interim arbitration award being made by defendant, defendant's counterclaim be deemed amended to increase the ad damnum by the amount of such payment and any security given by plaintiffs pursuant to this Order be thereupon increased accordingly; and it is

DETERMINED, for purposes of FRCP 54(b) that unless plaintiffs either enter into such written agreement or give such security as hereinabove set forth, there is just reason for delay in entering judgment pursuant to the



A-135

interim arbitration decision.

Dated: , 1976

---

U. S. D. J.



A-136

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

.....  
SOUNION SHIPPING INC.,  
et al.,

Plaintiffs,

-against-

PARCEL TANKERS, INC.,  
et al.,

Defendants.

..... x

R  
E  
D  
10-15-76

NOTICE OF APPEAL

76 Civ. 3705 LPG

Filed  
10-15-76  
S.S.

Notice is hereby given that defendant, Parcel Tankers, Inc., hereby appeals to United States Court of Appeals for the Second Circuit from the judgment entered herein on October 12, 1976, and from every part thereof.

Dated: New York, New York  
October 15, 1976

HAIGHT, GARDNER, POOR & HAVENS

By \_\_\_\_\_  
A Member of the Firm

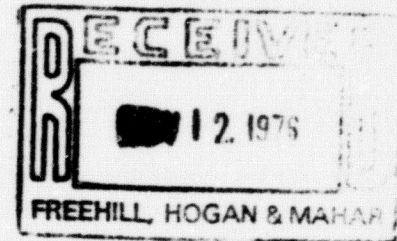
Attorneys for Defendant, Parcel Tankers, Inc.

TO: CLERK OF THE COURT  
United States District Court  
for the Southern District of  
New York

BURLINGHAM UNDERWOOD & LORD  
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